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- Labor Union Law and Regulation, Second Edition (p. 17)
- Directory of U.S. Labor Organizations, 2018 Edition (p. 21)
- Grievance Guide, Fourteenth Edition (p. 22)
- ERISA Class Exemptions, Fifth Edition (p. 27)
- ERISA Litigation, Sixth Edition (p. 28)
- Intellectual Property Law in Cyberspace, Third Edition (p. 30)
- Patents and Standards: Practice, Policy, and Enforcement (p. 32) New!
- Patents and The Federal Circuit, Thirteenth Edition (p. 35)
- Federal Health Care Discrimination Law (p. 46) New!
- False Claims Act: Whistleblower Litigation, Seventh Edition (p. 48)
- Corporate Settlement Tools: DPAs, NPAs, and Cooperation Agreements (p. 50) New!
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Defense of Class Action Litigation in Federal Court
By K&L Gates LLP
Focused on class action litigation practice in federal court from a defendant’s perspective, this treatise provides practitioners and in-house counsel with a resource to guide their strategy and research on all aspects of federal class actions. Beginning with procedural chapters following a “life of the lawsuit” chronology, subsequent chapters cover substantive areas such as antitrust, mass torts, securities, ERISA, bankruptcy, and other special topics including international and cross-border actions, and insurance.


ERISA: Department of Labor Investigations, Enforcement, and Litigation
By Theresa S. Gee
This new reference is the only source that pulls together analysis of DOL investigations and enforcement priorities, and reports on discrete DOL lawsuits and settlements. An important resource for both counseling and litigation purposes, it will prove valuable for attorneys, plan sponsors, fiduciaries, and service providers alike. The treatise includes: overview of ERISA statutory provisions and DOL jurisdiction and authority; DOL authority to enforce ERISA; DOL regulations and enforcement; investigations; challenges to administrative subpoenas and depositions; DOL litigation; settlements and consent judgments; and more.


Evidence in Patent Cases
Kenneth L. Dorsney, Editor-in-Chief; American Intellectual Property Law Association (AIPLA)
The outcome of a patent case can turn on the ability to admit or exclude evidence. This book explores evidence in patent litigation from case initiation through appeal. Part 1 offers strategy and analysis regarding evidence required to achieve a patent litigator’s objective during each stage of litigation and appeal. Part 2 catalogues evidentiary decisions and issues in patent cases by Federal Rule of Evidence to quickly find support for evidentiary positions during each pre-trial, trial, and/or hearing involving introduction of evidence.


Intellectual Property Litigation Under Section 337 at the U.S. International Trade Commission
By James B. Altman, F. David Foster, Mark L. Whittaker, G. Brian Busey, and Kandis Gibson; American Intellectual Property Law Association (AIPLA)
Liturigation of intellectual property disputes at the U.S. International Trade Commission (ITC) is an important means for U.S. intellectual property (IP) owners to enforce their IP rights. ITC trials often involve disputes between major companies and affect significant products. This book helps lawyers and affected business people understand how litigation at the ITC is different from district court litigation, and how the differences might impact litigation and business operations and strategy.


Intentional Employment Discrimination Claims and McDonnell Douglas
By Sandra F. Sperino
The primary test used in employment discrimination claims is the McDonnell Douglas test; however, few resources delve into the test’s important nuances. This new book is a first-of-its-kind analysis of the many sub-doctrines and circuit- and state-based differences that trip up unwary practitioners. The treatise covers: the history of the test as interpreted by the Supreme Court; procedural applications of the test; its intersection with other proof structures; the circuit-by-circuit development of the test; major state innovations; its use outside of discrimination law; its future; and more.


Prior Art Under the AIA: A Practical Guide
By Alan J. Kasper, Brad D. Pedersen, Ann M. Mueting, Gregory D. Allen, and Brian R. Stanton; American Intellectual Property Law Association (AIPLA)
A companion guide to Bloomberg Law’s Patents After the AIA: Evolving Law and Practice, this comprehensive ready-reference guide contains graphical timelines and step-by-step analyses for determining when pre- and post-AIA prior art law applies and how AIA §102 and its prior art exceptions are analyzed.


The Practitioner’s Guide to Federal Asset Forfeiture Law
By Sharon Cohen Levin
Written by the person Forbes magazine referred to as “the Babe Ruth of Forfeiture,” this treatise is a practical guide for attorneys litigating a civil or criminal forfeiture case or defending or prosecuting an action where forfeiture is a part of the penalty. Topics covered include: insider trading; attorney’s fees; pre-trial restraint of substitute assets; corporate forfeiture; forfeiture for sanctions and anti-money laundering violations; victim compensation; the interplay between forfeiture and bankruptcy; and more.


Trial Techniques for the Labor and Employment Law Practitioner
Mark P. Grajski and Eric W. Iskra, Editors-in-Chief
ABA Section of Labor and Employment Law
This important new reference is published in conjunction with the ABA Section of Labor and Employment Law’s Trial Institute. Topics covered include: effective trial advocacy in employment law cases, preparing for trial, motions in limine; final pretrial conference; jury selection; opening statements; direct and cross examination; handling expert witnesses; trial graphics and courtroom technology; jury instructions; verdict forms; closing arguments; trial ethics; post-trial motions; and more.


Vaccine, Vaccination, and Immunology Law
By Brian Abramson
Vaccine, Vaccination, and Immunology Law comprehensively addresses all areas of law relating to vaccines and vaccination, including regulation of product development, public health controls, mandates, government promotional efforts, intellectual property protection, common law and constitutional objections to vaccination, recovery for vaccine-related injury, and more. This practical treatise is recommended for food and drug lawyers, health care professionals, patent lawyers, policy makers, and the Federal Claims and Federal Circuit bar.


Gregory K. McGillivray, Editor-in-Chief

Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

The complete guide to state wage and hour laws. Wage and Hour Laws: A State-by-State Survey, Third Edition provides a thorough and complete analysis of the

- Minimum wage and overtime laws
- Timing, place, and manner of payments to employees
- Mandatory payments in addition to overtime, such as shift differentials and reimbursement for tools and uniforms
- Recordkeeping/posting requirements
- Common law theories to recover unpaid wages, defenses, and remedies
- Enforcement and remedies of workers' statutory protections, including injunctions, and private and state enforcement actions
- Special litigation issues, such as the availability of Rule 23 class actions, double or treble damages, and attorneys' fees and costs

In addition, the Third Edition is updated with the addition of sections on fluctuating workweeks, gap time pay, the treatment of mandatory service charges in the payment of tipped employees, Portal-to-Portal acts, mandatory paid sick leave laws, and the varying state laws defining joint employment and independent contractors.

Supplement Information

The 2017 Supplement brings coverage current through December 2016, with highlights including:

- A new law in California requiring overtime payment for agricultural workers
- Resolution of a Florida court split on whether a class action for unpaid wages under state law and a collective action for overtime compensation under the FLSA may be maintained in the same proceeding
- Recognition of the patchwork of wage and hour requirements in Illinois, with its conflicting state, county, and municipal requirements
- Amendment to the Massachusetts Department of Labor Standards' Minimum Wage regulations regarding "working time" and rest periods
- New York legislation requiring the provision of paid family leave benefits to eligible employees

Summary of Contents

Each State Chapter Addresses:

- State Law and Regulation
- Operations and Functions of State Administrative Agency
- Minimum Wage and Overtime Laws
- Timing, Place, and Manner of Payments
- Payments and Leave in Addition to Minimum Wage and Overtime
- Prohibitions on Hours Worked
- Occupations With Special Rules
- Child Labor
- Recordkeeping, Posting, and Notice Requirements
- Common Law Causes of Action
- Retaliation
- Special Litigation Issues

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Contributors are members of the ABA Section of Labor and Employment Law.

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New Cumulative Supplement Due Winter 2018
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The Fair Labor Standards Act, Third Edition

Ellen C. Kearns, Aaron D. Kaufmann, and Dennis M. McClelland, Editors-in-Chief (Main Volume); Aaron D. Kaufmann, Dennis M. McClelland, and Nantiya Ruan, Editors-in-Chief (2017 Cumulative Supplement)

Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

An essential tool for understanding and interpreting the FLSA. The Fair Labor Standards Act is the essential tool for helping practitioners understand FLSA coverage and exemptions. Topics examined include FLSA claim arbitration, the Section 7(i) retail sales or service establishment exemption, collective action litigation brought under the FLSA by individual private plaintiffs, “hybrid” actions involving both state and federal law claims, and the elements of enforcement actions and litigation brought by the Secretary of Labor. It also features a completely rewritten chapter analyzing independent contractor and joint employer issues, and point-by-point evaluations of each FLSA exemption.

Supplement Information

The 2017 Cumulative Supplement covers topics including: compensable time of trainees, interns, volunteers, and student athletes; DOL Regulations regarding Section 3(m) tip credits; 11th Amendment immunity; FLSA retaliation; counterclaims against government employers and the DOL; conditional certification and decertification, including misclassification cases and common corporate policy requirements; judicial review of FLSA settlements; validity of arbitration agreements; and FLSA notice.

"An essential tool for any labor lawyer or attorney representing employers, labor unions, government entities, or private parties who wishes to understand the precise applications of specific provisions of the Act.”


Summary of Contents

- A Brief History of the Fair Labor Standards Act
- Operations and Functions of the Department of Labor
- The Employment Relations §
- Employer Coverage
- White-Collar Exemptions
- Other Statutory Exemptions
- Agricultural Exemptions
- Compensable Hours
- Minimum Wage Requirements
- Overtime Compensation
- Government Employment
- Child Labor
- Retaliation
- Recordkeeping
- Department of Labor Enforcement and Remedies
- Litigation Issues
- Collective Actions and “Hybrid” Class Actions

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Supplement History: 2016, $330.00

New Cumulative Supplement Due Winter 2018
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Employment Law

Employment Discrimination Law, Fifth Edition

By Barbara T. Lindemann, Paul Grossman, and C. Geoffrey Weirich (Main Volume); Debra A. Millenson, Laurie E. Leader, and Scott A. Moss, Executive Editors (2017 Cumulative Supplement)

Equal Employment Opportunity Law Committee, ABA Section of Labor and Employment Law

The premier treatise on the law of discrimination in the workplace. Employment Discrimination Law is the definitive treatise in this complex and highly detailed field. The balanced and unbiased approach of this two-volume work reflects the combined efforts of attorneys from the three wings of the ABA Labor and Employment Law Section’s Equal Employment Opportunity Law Committee, representing the plaintiff/public, management, and union employment bars. Offering the most comprehensive coverage of employment discrimination law available, Employment Discrimination Law is described as an “indispensable resource” in the Legal Information Buyer’s Guide and Reference Manual, 2017 Edition.

The Fifth Edition’s highlights include the impact of the Supreme Court’s rulings on the breadth of retaliation claims, the viability of agreements to arbitrate employment disputes, Title VII class actions, and the statute of limitations accrual date for pay discrimination. It also features rewritten chapters on EEOC administrative processes and federal contract affirmative action compliance.

“This scholarly examination of employment discrimination issues includes a discussion of disparate treatment, adverse impact, effects of past discrimination, reasonable accommodation, sexual harassment, comparable worth, wrongful discharge, union relations, and statistical proof.”


Workplace Harassment Law

By Barbara T. Lindemann and David D. Kadue

Comprehensive coverage of this litigious area of employment law.

Workplace Harassment Law offers valuable guidance from seasoned practitioners, providing the comprehensive coverage that attorneys need when bringing or defending a workplace harassment suit. It examines the nuts and bolts of the law, including the requirements for bringing a harassment suit, whether it is based on gender, race or color, national origin, religion, age, disability, association, or proximity, as well as the determination of employer liability once harassment is shown. It also explores timeliness and the timely exhaustion of administrative remedies; the parties involved; and the establishment of the causal connection, one of the most important requirements of a harassment claim.

Summary of Contents

Part I. Overview
Part II. Timelessness of Claims
Part III. The Parties
Part IV. The Causal Connection
Part V. Harassment Culminating in a Tangible Environment

Part VI. Employer Liability
Part VII. Other Sources of Federal Law Creating Rights and Obligations Regarding Workplace Harassment
Part VIII. Special Issues in Harassment Litigation

Barbara T. Lindemann is formerly Of Counsel at Seyfarth Shaw, Los Angeles, CA.

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The Family and Medical Leave Act of 1993, as Amended

Family Responsibilities Discrimination

By Cynthia Thomas Calvert, Joan C. Williams, and Gary E. Phelan

Covering the breadth of liabilities in this fast-growing area.

Family Responsibilities Discrimination provides everything lawyers need to know about this subject area. From the discussion of applicable federal, state, and local laws that cover family caregivers in various circumstances to analysis of issues arising with particular types of workers, this treatise is a useful resource for all employment lawyers. Family Responsibilities Discrimination provides a clear explanation of what FRD is, how and why it arises, related laws, how claims are brought and defended, and how it can be prevented in the workplace.

Family Responsibilities Discrimination covers topics such as the history and development of FRD, potential causes of FRD in the workplace, statutory and common law bases of FRID liability, current federal and state FRD case law, and practice tips for both plaintiffs’ and management-side lawyers.

Supplement Information

The 2016 Supplement updates the work with highlights including in-depth discussions of how the Supreme Court’s decision in Young v. UPS affects not only light duty claims but also Title VII cases; complete coverage of pregnancy accommodation laws and cases; an overview of the newest state and local laws covering family responsibility discrimination, paid sick days, and parental leave; a new section detailing breastfeeding laws, an expanded section about employees who provide care for elders; updated case law regarding caregiving and the FMLA, ADA, and Title VII; wrongful termination; breach of contract; and more.

Summary of Contents

• Overview of Family Responsibilities Discrimination
• Title VII Sex Discrimination
• The Family and Medical Leave Act
• Americans With Disabilities Act
• The Employee Retirement Income Security Act
• The Equal Pay Act
• State and Local Statutory Overview
• State Common Law Overview
• State Law and FRD
• Public Employees
• Pregnant Employees
• Employees With Flexible Work Schedules
• Male Caregivers
• Employees Who Care for Elders
• FRD in Canada
• Appendices
• Table of Cases
• Index

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Disability Discrimination and the Workplace, Second Edition

By Peter A. Susser and Peter J. Petesch

Complete analysis of the ADA and subsequent amendments and relevant EEOC regulations. Employers must focus on avoiding discrimination, accommodating employees with disabilities, and guarding privacy. These challenges are clearly addressed and analyzed in the Second Edition of Disability Discrimination and the Workplace. This important reference paints a comprehensive picture of the disability discrimination landscape, covering both pre-ADAAA and post-ADAAA interpretations.

Highlights of the Second Edition include analysis of the parameters of the Rehabilitation Act, with its development of key definitions, such as those that identify individuals with “handicaps” and the scope of the critical obligation to reasonably accommodate protected individuals; the proliferation of state disability discrimination protections and how they are interpreted; the intersection of disability discrimination law and other federal statutes, including FMLA, GINA, ERISA, and NLRA; and more.

Supplement Information

The 2017 Supplement updates the discussion of case law and addresses new developments including:

• The expansion of ADA litigation as a focal point under the EEOC’s Strategic Enforcement Plan
• Case treatment of ADA coverage issues in the aftermath of the ADAAA
• Increased focus in case law on what it means to be a “qualified individual” with a disability
• Reasonable accommodation, including leaves, absenteeism, reassignments, and service animals
• Benefits issues, such as wellness programs
• Proliferation of ADA Title III claims, including website accessibility claims and ADA Title III class claims

“This treatise serves as a very useful, in-depth tool in assessing obligations and potential exposure on a very large number of topics in this area, and will be a frequently-used resource.”

—Randy J. Kamen, Vice President and Associate General Counsel, Sony Electronics, Inc.

Summary of Contents

• Overview
• The Rehabilitation Act of 1973
• Americans With Disabilities Act: Legislative History
• State Disability Discrimination Laws
• Disabilities Protected
• Access and Accommodation
• The Americans With Disabilities Act and the Hiring Process
• Reasonable Accommodation
• Interplay of Related Workplace Statutes
• Remedies, Proof, Litigation Strategies, and ADR

Peter A. Susser and Peter J. Petesch are shareholders at Littler Mendelson P.C., Washington, DC.

Age Discrimination in Employment Law, Second Edition

By Barbara T. Lindemann and David D. Kadue; Eric W. Iskra and Eric E. Kinder, Editors-in-Chief (Main Volume); Eric E. Kinder and Eric W. Iskra, Editors-in-Chief (2017 Cumulative Supplement)

Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

A complete resource for bringing and defending age discrimination claims.

Age Discrimination in Employment Law arms practitioners with winning strategies and detailed analysis. Written from an unbiased perspective, the treatise leads the dialogue in this volatile field. “[A] monumental achievement in the field of age discrimination in employment and an indispensable resource to any attorney practicing in the field.” (Legal Information Buyer’s Guide and Reference Manual, 2017 Edition).

The Second Edition explores the breadth of ADEA law, including: description of the evolving role of the EEOC and EEOC litigation; the increasing role of arbitration in resolving age discrimination disputes; analysis of decisions and regulations on the “reasonable factor other than age” defense; explanation of how appellate courts continue to handle the “but for” causation standard, including how the standard differs from Title VII and ADEA practice; and appendices featuring the Act, regulations, revenue rulings, and release forms.

Supplement Information

The 2017 Cumulative Supplement updates the treatise with highlights including: disparate impact claims in light of Villareal v. R.J. Reynolds Tobacco; meaning of the “honest and reasonable belief” defense; impact of the EEOC’s 2016 Enforcement Guidance on Retaliation to ADEA cases; 10th Circuit’s decision that the Farragher/Elberth defense applies in ADEA cases; allocation of the burden of proof in disparate treatment discharge cases; EEOC’s proposed guidance on retaliation; expansion of adverse impact/disparate impact claims to protect job applicants; “stray remarks” as evidence giving rise to inference of discrimination; and more.

Summary of Contents

• Persons Protected
• Against Whom a Charge May BeFiled Under the ADEA
• Defining Age
• Terms and Conditions of Employment
• Mandatory Retirement
• Reductions in Force
• Harassment
• Discharge
• Retaliation
• Disparate Treatment
• Adverse Impact
• EEOC Structure, Jurisdiction, and Process
• Evidence
• Judicial Jurisdiction, Timeliness, and Venue
• Timeliness and Sufficiency of ADEA Administrative Charges
• Summary Judgment
• Jury Trials
• Expert Witnesses
• Affirmative and Other Defenses
• EEOC Litigation
• Public Employee Litigation
• Collective Actions
• Settlement and Release
• Labor Arbitration and Employment Arbitration
• Alternative Avenues for Relief
• Remedies

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Contributors are members of the ABA Section of Labor and Employment Law.

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Supplement History: 2016, $235.00/2014, $225.00
New Edition Due Winter 2018
www.bna.com/bnabooks/age
By P. Daniel Williams (Main Volume); Laura Brown and J. Thomas Spiggle
(2017 Supplement)

Useful for lawyers and HR professionals alike.
The Pregnancy Discrimination Act: A Guide for Plaintiff Employment Lawyers provides strategies and guidance on pregnancy discrimination litigation that plaintiff lawyers require to effectively represent their clients. This book also contains extensive analysis regarding case law favorable to defendants, making it a useful source of information for management lawyers.

This treatise covers essential topics including: proximity; evidentiary issues; proof of knowledge; discriminatory comments and stereotypes related to family caregiver responsibilities; requirement to use comparator evidence; light duty; accommodation; issues regarding jury instructions and selection in PDA cases; state law pregnancy discrimination claims; and damages.

Supplement Information
The 2017 Supplement incorporates significant developments that have occurred since the First Edition was published in 2011, including:

- The EEOC’s revised regulations for the Americans with Disabilities Act, making it easier for pregnant workers to obtain reasonable accommodations under the law, as well as to assert claims for disability discrimination based on pregnancy-related medical conditions
- Congress’ passage of the Affordable Care Act, which amended the FLSA to include the right to pumping accommodations for nursing mothers
- The U.S. Supreme Court’s decision in Young v. UPS, which expanded access to reasonable workplace accommodations for pregnant workers under the PDA
- The EEOC’s issuance of Enforcement Guidance on Pregnancy Discrimination and Related Issues
- Statutory developments in various states that give pregnant women an affirmative right to workplace accommodations during pregnancy, including unpaid time off to recover from childbirth
- Several states’ passage of paid family leave insurance laws, giving employees the right to paid time off to welcome a newborn

Summary of Contents
- Who is Protected by the PDA?
- Related Supreme Court Decisions
- Temporal Proximity
- Direct Evidence, Discriminatory Comments, and Stereotype Evidence
- Knowledge of Pregnancy
- Maternity Leave, Pregnancy-Related Absenteeism, and Comparator Evidence
- Accommodation Under the PDA
- Related Federal Statutes
- State Law
- Unwed Pregnant Employees
- Female Decision Makers
- Juries and Pregnancy Discrimination Cases
- Special Damages Issues
- Appendices (Excerpts from Title VII, ADA, FMLA, FLSA, and EEOC Regulations)

P. Daniel Williams is a founding partner in Magid & Williams, Jacksonville, FL.
Laura Brown is an attorney and the Executive Director of the First Shift Justice Project, Washington, DC.
J. Thomas Spiggle is the founder of The Spiggle Law Firm PLLC, Arlington, VA.

Gender Identity and Sexual Orientation Discrimination in the Workplace: A Practical Guide
Christine Michelle Duffy, Esq., Editor-in-Chief; Denise M. Visconti, Esq., State Laws Executive Editor

A groundbreaking, must-have resource.
The first book to comprehensively address workplace law and human resource practice relating to gender identity, sexual orientation, and gender expression. Gender Identity and Sexual Orientation Discrimination in the Workplace is a must-have for labor and employment lawyers and HR professionals. Antidiscrimination law in this area has exploded in recent years as more states and courts have expanded the law to protect lesbian, gay, bisexual, and transgender (LGBT) employees.

This treatise surveys state and federal employment laws applicable to LGBT employees and discusses a wide range of HR best practices. The legal survey is contextualized by a collection of 19 essays discussing the implications of gender and sexual orientation in society, across areas such as education, religion, and the workplace, as well as in the lives of several essayists who have shared their personal stories and recommendations for employers.

Gender Identity and Sexual Orientation Discrimination in the Workplace explores:
- Employment discrimination laws, immigration law, labor arbitration, and plaintiff and defense litigation tactics and strategies
- Summaries of employment laws relating to LGBT issues in all 50 states, the District of Columbia, and Puerto Rico
- Practical solutions for HR professionals implementing policies, practices, and programs that respond to the changes in the law and the growing social acceptance of LGBT employees
- Intersections of gender and sexual orientation with culture, education, politics, religion, and the workplace

This book features detailed case summaries, coverage of Title VII and ADA case law, and a comprehensive discussion of the challenges presented by LGBT terminology. Written and reviewed by more than 125 expert contributors on both sides of the employee-management divide, this treatise provides both insightful commentary and pragmatic guidance.

“In one remarkable, easy to read treatise, Duffy attacks and conquers all issues related to federal and state law requirements.”
—Mark Theodore, Proskauer Rose LLP

Summary of Contents
Part I—Overview
Part II—Personal Essays: Walk in Our Shoes
Part III—The Federal Law of Gender Identity and Sexual Orientation Discrimination in the Workplace
Part IV—The State Law of Gender Identity and Sexual Orientation Discrimination in the Workplace
Part V—Labor Arbitration and LGBT Employees
Part VI—Litigating the Transgender Discrimination Case: Perspectives on Tactics and Strategies
Part VII—Workplace Solutions
Part VIII—LGBT People in the Context of Culture, Religion, and Society
Appendices • Table of Cases • Index

Christine Michelle Duffy, Esq., is a Senior Staff Attorney with the Pro Bono Partnership, Parsippany, NJ.
Denise M. Visconti, Esq., is Managing Shareholder of the San Diego, CA office of Littler Mendelson P.C.
Royalties from this treatise are being donated to Gay & Lesbian Advocates & Defenders, Inc. (GLAD).

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Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

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By Brian M. Malsberger
Chief Contributing Editor: Luke A. Suchyta
Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

In-depth coverage of each state’s statutory and common law protection of trade secrets.
This treatise provides authoritative, in-depth analysis of each state’s statutory and common law protection of trade secrets and other confidential business information, both within and outside the employment context. Using a uniform topic structure that provides a comparative view across states, this treatise is invaluable for lawyers with a multi-jurisdictional practice, as well as for those seeking persuasive authority from other states.

The Fifth Edition examines whether ownership, as opposed to mere possession, is a prerequisite to a claim for trade secret misappropriation; how particularized a trade secret claim must be at pleading and throughout litigation; what must be shown by a party asserting trade secret status as a basis for sealing a court record; whether punitive damages require proof of actual intent; whether a corporate entity can be capable of engaging in the type of conduct required to support punitive damages; the extent to which the Uniform Trade Secrets Act preempts common law claims for unfair competition and breach of the employee duty of loyalty; and more.

Supplement Information
The 2017 Cumulative Supplement reviews issues including the availability of protective orders in Arkansas; statutes of limitation analysis in California; whether Florida Privacy of Communication Act claims are preempted by the Florida Uniform Trade Secrets Act; the availability of attorney’s fee awards under Maryland law; where a claim for trade secret misappropriation is lodged to gain leverage in a divorce proceeding; whether hair replacement techniques can be properly styled as a trade secret in Virginia; whether a nonparty’s medical factual data can be protected as a trade secret under West Virginia law; and more.

Summary of Contents
Each State Chapter Addresses:
• State’s Definition of “Trade Secret”
• Courts’ Interpretations Under the Statute, Uniform Trade Secrets Act, and Common Law
• Policy Considerations Recognized by Courts
• Evidence Establishing the Elements of a Trade Secret and of a Misappropriation Claim
• Courts’ Justifications for Denial of Protection
• Types of Information Granted Trade Secret Protection
• Types of Relief Granted for the Misappropriation of Trade Secrets
• Level of Protection for “Proprietary Information”
• References to Law Review Articles/Other Publications

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Authors and Editors of the State-by-State Survey Series
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Contributors are members of the ABA Section of Labor and Employment Law.
By Brian M. Malsberger
Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

A complete guide to causes of action, procedural issues, leading cases, and emerging trends in all 50 states and the District of Columbia.

Reflecting the rapid expansion of litigation surrounding the employee duty of loyalty, this meticulously researched treatise reviews the duty on a state-by-state basis, including analysis of prohibited and permitted conduct, litigation issues, defenses, damages, and the availability of injunctive relief.

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Representative highlights covered in the Sixth Edition include examination of:
• Remedies available under the 2015 Restatement of Employment Law
• The allegations necessary to support a preparation-to-compete defense under Delaware law
• The appropriate statute of limitations under District of Columbia law
• The specific elements of an aiding-and-abetting claim under Florida law
• Whether using an employer-supplied home office to service noncompetitive clients breaches the duty under New York law

Supplement Information

The 2017 Supplement updates the treatise with analysis including: whether the Arizona common law duty owed by officers and directors coexists with statutory law; whether postemployment conduct can support a claim for breach of an agent’s fiduciary duty under District of Columbia law; preemption by the Illinois trade secret statute; whether a claim for breach of the duty under Maryland law requires a finding that customer contact was initiated by the employee; and more.

“An essential resource for any attorney representing clients in breach of employee loyalty cases.”

Summary of Contents

Each State Chapter Addresses:
• How the State Defines Protectable Interests of Employers
• Procedural Issues
• Duty of Employee to Disclose Information, Corporate Opportunities, or Conflicts of Interest to Employer
• Prohibition Against Solicitation of the Employer’s Customers, Accounts, or Employees
• Limitations on Competition by Employee During and After Employment
• Prohibition Against Use of Employer’s Proprietary Information
• Prohibition Against Taking Kickbacks and Bribes
• Remedies
• Injunctive Relief
• Employee Defenses
• Distinctions Among Categories of Employees
• Illustrative Cases
• Law Review Articles/Other Publications

See page 8 for author and editors information.

New Edition!
By Brian M. Malsberger
Board of Review Associate Editors: David J. Carr, Arnold H. Pedowitz, and Eric Akira Tate
Committee on Employment Rights and Responsibilities, ABA Section of Labor and Employment Law

Up-to-date coverage of critical tortious interference issues in the competitive-employment context.

Tortious Interference in the Employment Context: A State-by-State Survey, Fifth Edition examines, by state, two closely related actions that often arise in employment lawsuits: tortious interference with contract, and tortious interference with commercial relationships or prospective economic expectancies. Whether in a business-versus-business suit, or in a suit brought by a former employee against an employer, a tortious interference claim is frequently collateral to a suit alleging breach of a covenant not to compete, breach of the employee duty of loyalty, or misappropriation of trade secrets.

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The treatise also reviews the various defenses that may be raised, including the invalidity or unenforceability of the underlying restrictive covenant; breach of contract by the former employer; uncured hands, estoppel; and other equitable defenses; the affirmative defenses of justification and competitor’s privilege; preemption; absence of damages; statute of limitations; and more. Using a uniform topic structure that provides a comparative view across states, Tortious Interference in the Employment Context is invaluable for lawyers with a multi-jurisdictional practice, as well as those seeking persuasive authority from other states.

Summary of Contents

Each State Chapter Addresses:
• Elements of a Former Employer’s Claim Regarding Recruiting or Hiring an Employee With a Restrictive Covenant:
  • Interference With the Covenant
  • Interference With Commercial Relationships or Prospective Economic Advantages
• Claims for Interference Involving the Restrictive Covenant Itself:
  • Claims Against the New Employer Where the Employment Was At Will
  • Claims Where the Employment Was for a Definite Term
  • Defenses to Claim
  • Relief Available to Former Employer
• Similar Claims Recognized by States
• Common Issues:
  • Hiring Measures by a New Employer for Screening Applicants With Restrictive Covenants
  • Practical Advice to a Company Considering Hiring Such an Applicant
  • Indemnification
• Personal Liability of Individual Officers or Employees of Former Employer for Interference

Law Review Articles/Other Publications

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Summery of Contents

Each state chapter addresses:
- The creation of enforceable employment agreements through employee handbooks, written personnel policies, and oral assurances
- Common law claims for wrongful discharge
- The implied covenant of good faith and fair dealing
- The public policy exception to the doctrine of employment at will
- The burden of proof necessary to sustain a claim of wrongful discharge
- What constitutes “just cause” for purposes of termination
- The effect of disclaimers on the employment at will relationship
- Potential damages in a wrongful discharge claim
- Related tort claims arising out of the employment relationship, including fraud, intentional interference with a contract, defamation, intentional infliction of emotional distress, negligence, and invasion of privacy
- State statutes prohibiting termination based on classifications

David L. Johnson is an attorney at Butler Snow LLP, Nashville, TN. Contributors are members of the ABA Section of Labor and Employment Law.

Reductions in Force in Employment Law, Second Edition

By Ethan Lipsig, Mary C. Dollarhide, and Brit K. Seifert

A resource addressing discrimination, benefits, and other RIF concerns.

This book is a step-by-step guide to the key employment and employee benefit considerations surrounding a reduction in force (RIF). The material in this soup-to-nuts volume is presented in logical order, from preliminary issues to consider when planning a workforce reduction, to those that arise during implementation.

Summary of Contents

Part I. Practice and Law
Part II. Appendices
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EEOC Litigation and Charge Resolution, Second Edition

By Donald R. Livingston and Reed L. Russell

An inside look at litigating with the EEOC.

This treatise helps practitioners more effectively handle EEOC investigations, conciliations, and litigation, explaining and demystifying the commissioner charge process, sponsored litigation, the subpoena process, and requirements for settlements. It also addresses updates on subpoena enforcement actions, rules concerning the EEOC’s conciliation obligations, and special litigation considerations.

The Second Edition reviews the rules on EEOC administrative subpoenas and information requests, the standards for the conciliation process, the general counsel’s guidance for the conduct of EEOC litigation, and the practical implications of the EEOC’s systemic enforcement initiative. It also discusses important case law, including Federal Express v. Holloweck and the Eighth Circuit’s decision in EEOC v. CRST Van Expedited, Inc.

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Chapter 7. Charge Investigations
Chapter 8. Commissioner Charges and Other EEOC-Initiated Investigations
Chapter 9. Handling EEOC Investigations on Behalf of Respondents
Chapter 10. Respondents’ Position Statements
Chapter 11. Disposition of Charges
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Chapter 14. EEOC Workload: Statistical Data

Part III. EEOC Litigation
Chapter 15. EEOC Subpoenas and Subpoena Enforcement Litigation
Chapter 16. EEOC Enforcement Litigation
Chapter 17. Settlement of Litigation
Chapter 18. Appellate Litigation

Donald R. Livingston is a retired partner at Akin Gump, Washington, DC, and former EEOC General Counsel, 1990–93.

Reed L. Russell is a partner in the labor and employment practice at Phelps Dunbar LLP, Tampa, FL, and former legal counsel of the EEOC.

Section publications provide a balanced forum for the views and professional development of practitioners in labor and employment law. For more information on Section participation, please call 312.988.5813 or visit www.americanbar.org/groups/labor_law.html.
addresses relevant issues such as:

- Discovery issues associated with ESI from an employment law perspective, including preservation, spoliation, attorney-client privilege, and working with IT professionals
- A comprehensive analysis of data retention requirements of federal labor and employment statutes
- Privacy and discovery issues associated with social media and devices owned by either the employer or the employee
- International workplace-related privacy laws

**Supplement Information**

The 2014 Supplement includes:

- Updates on legal developments related to workplace data
- Discussion of analysis of proportionality relative to ESI under Federal Rule of Civil Procedure 26(b)(2)(C)(iii)
- Discussion of discovery standards before the National Labor Relations Board
- Detailed discussion of social media discovery issues

**Summary of Contents**

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Chapter 5. E-Discovery in the Workplace: Employee Perspective

Chapter 6. General Evidentiary Issues for Workplace-Related ESI

Chapter 7. Preservation, Spoliation, and Sanctions

Chapter 8. Attorney-Client Privilege in the ESI Context

Chapter 9. Working With Information Technology Experts

**Part II. E-Discovery Challenges**

Chapter 10. Federal Data Retention Statutes


Chapter 12. The Computer Fraud and Abuse Act and the Economic Espionage Act

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Chapter 13. International Workplace Data Issues: An Introduction

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Chapter 17. Employee Benefits

Chapter 18. Reciprocal Arrangements Between Canada and the U.S.

Chapter 19. Canada and Globalization

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**Robert Sprague** is an Associate Professor of Legal Studies at the University of Wyoming College of Business and a member of the Editorial Board of the American Business Law Journal.

Contributors are members of the ABA Section of Labor and Employment Law.

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- Germany—clarification of employers’ obligations regarding protecting employees from tobacco smoke
- Canada—consideration of how an employer’s financial position may affect punitive damages in a wrongful dismissal and harassment case
- China—passage of Cybersecurity Law
- United Kingdom—introduction of the National Living Wage for employees aged 25 years and over

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South Africa, China, Hong Kong, Japan, Brazil

Volume IB: Major Economies (NAFTA) and International Issues

NAFTA/NAALC and Member Countries

Canada, Mexico, United States, Northern Mariana Islands, Puerto Rico


NAFTA Appendices

International Organizations

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The International Financial Institutions

The Organisation for Economic Co-operation and Development

Union Participation in International Labor Affairs

International Employers Associations

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Social Networking and the Global Workforce

Impact of International Human Rights Law on Labor and Employment Law


William L. Keller and Timothy J. Darby, Editors-in-Chief (Main Volume)

Timothy J. Darby and Ute Krudewagen, Editors-in-Chief (Fall 2017 Cumulative Supplement)

International Labor and Employment Law Committee, ABA Section of Labor and Employment Law

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Discusses developments in countries beyond the major economies discussed in Volume I, including several European Union member states, as well as countries in Africa, Asia, the Middle East, Oceania, and South America.

The Fourth Edition includes information on the extraterritorial application of each country’s laws, and the availability of class action procedures. The extensive bibliography identifies sources of additional information, including internet resources and addresses of key offices.

Supplement Information

The 2017 Cumulative Supplement updates the main volume with highlights including: Australia’s enactment of the Family Time Bonus Act, affecting parents in same-sex relationships; Chile’s adoption of the Labor Modernization Law, a new chapter on Costa Rican labor law; Greece’s replacement of main discrimination law to implement EU Antidiscrimination Directives; Indonesia’s new regulation changing the method for determining the minimum wage by region; multiple amendments to Poland’s Labor Code; Russia’s amendments to the Code on Administrative Offenses; and Taiwan’s amendments to the Labor Standards Act.

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Austria, Bulgaria, Czech Republic, Denmark, Greece, Hungary, Ireland, The Netherlands, Norway, Poland, Portugal, Russia, Sweden, Switzerland, Turkey, Ukraine

Volume IIB: Additional Economies (Non-European)

Africa: Nigeria

Asia: Cambodia, India, Indonesia, Singapore, South Korea, Taiwan, Vietnam

Middle East: Israel, Saudi Arabia

Oceania: Australia, New Zealand

South America: Argentina, Chile, Venezuela

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Contributors are members of the ABA Section of Labor and Employment Law.
Privacy in Employment Law, Fourth Edition
By Matthew W. Finkin

Know the extent—and limits—of individual rights and employer authority. Privacy in Employment Law offers clear guidance on the limits of employer authority in securing information about applicants and employees, disclosing such information, and controlling activities in the U.S. workplace. Its comprehensive coverage includes lists of state laws relevant to workplace privacy, including drug testing; access to personnel files; lie detection; electronic monitoring; and more, as well as selected foreign statutes and the European Union directive on privacy law.

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- Use of information on credit-worthiness as basis to deny employment
- Monitoring of employee communications on company-provided equipment
- Employee’s access of employer's data for ulterior purposes
- Ramifications of lawful marijuana use on employment
- Firearms in employee vehicle

Supplement Information
The 2017 Cumulative Supplement updates the Fourth Edition with coverage including:
- Whether class-based medical screening complies with the “fitness for work” limitation of the ADA
- Prior criminal convictions as disqualification for employment
- Application of FCRA to data intermediaries
- Distinction between “fact” and “opinion” and the limits of privilege in defamation
- Duties imposed on credit reporting agencies in dealing with public records
- Right to display messages on one’s person in the private and public sectors

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Chapter 1. Medical Screening and Testing
Chapter 2. Drug, Alcohol, and Tobacco Screening and Testing
Chapter 3. Psychological Screening and Testing
Chapter 4. Interviews and Background Investigation
Chapter 5. Monitoring Employee Performance and Conduct
Chapter 6. Control of Employees

Part II. Statutory and Regulatory References
Polygraphy and Lie Detection
Drug and Alcohol Testing
Use of Tobacco, Alcohol, or Lawful Products Outside the Workplace
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France

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Matthew W. Finkin is the Albert J. Hamo and Edward W. Cleary Chair in Law at the University of Illinois, where he also holds appointments in the Center for Advanced Study and the School of Labor and Employment Relations.

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Global Employee Privacy and Data Security Law, Second Edition
Morrison & Foerster LLP, Miriam H. Wugmeister and Christine E. Lyon, Editors

An essential guide to workplace privacy and data security laws around the globe.

This handbook helps privacy and human resources professionals and attorneys understand international workplace privacy and data security laws and their relation to U.S. law, and ensure compliance with all requirements.

Summary of Contents
Chapter 1. Overview of Privacy and Data Security
Chapter 2. Background Checks and Investigations
Chapter 3. Email and Internet Monitoring/Video and Physical Surveillance
Chapter 4. Employees’ Off-Duty Conduct
Chapter 5. Confidentiality of Health Information
Chapter 6. Medical Examinations and Drug Testing of Applicants and Employees
Chapter 7. Personnel Records
Chapter 8. Use of Government Identifiers and Social Security Numbers
Chapter 9. Security Breach Notification Requirements
Chapter 10. Data Security: Maintaining an Information Security Program

Miriam H. Wugmeister is a partner at Morrison & Foerster LLP; New York, NY
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Restrictive Covenants and Trade Secrets in Employment Law: An International Survey, Volumes I and II
Wendi S. Lazar and Gary R. Siniscalco, Editors-in-Chief; Katherine Blostein, Associate Editor

International Labor and Employment Law Committee, ABA Section of Labor and Employment Law

A must-have resource for companies and attorneys dealing with trade secrets or covenants in employment agreements abroad.

Each country-specific chapter examines applicable country law; international conventions and treaties; practical issues in drafting restrictive covenants; strategies and tactics in trade secret protection and enforcement; forum options; jurisdiction; and discovery.

Volume I covers Europe, and Volume II covers the Americas, Asia, the Middle East, Africa, and Oceania.

Wendi S. Lazar is a partner at Outten & Golden LLP; New York, NY.
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Contributors are members of the ABA Section of Labor and Employment Law.

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Employment Law

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George R. Wood and Ossai Miazad, Editors-in-Chief
Federal Labor Standards Legislation Committee, ABA Section of Labor and Employment Law

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- Pay and benefits when an employee is taking a leave of absence
- Health care and non-health care benefits for returning employees
- In-depth discussion of USERRA's application of the "motivating factor" test for discrimination and retaliation claims

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Chapter 9. Interrelationship with Other Laws and Employer Practices
Chapter 10. Discrimination, Retaliation, and Harassment
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George R. Wood is a partner with Littler Mendelson P.C., Minneapolis, MN. Ossai Miazad is a partner and Co-Chair of the Discrimination and Retaliation Group at Outten & Golden LLP, New York, NY. Contributors are members of the ABA Section of Labor and Employment Law.

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Healthcare Employment Guide: Counseling on the New Medical Realities
By James O’Reilly and Mary Ellen Keegan

It’s a harsh employment climate for healthcare professionals and their counsel. Be prepared.

Employment disagreements in the healthcare profession can quickly become multi-level conflicts that require legal counsel with specialized knowledge. Healthcare Employment Guide arms legal practitioners with the insights they need to capably represent doctors, nursing groups, smaller providers, and public entities in dealing with the new realities of the corporate healthcare world.

Critical information covered includes: forming a unit to organize hospital worker unions; mergers and outsourcing effects on individual healthcare workers; pitfalls of expansive rules on doctor/laboratory “kickbacks”; Medicare’s disqualification of individual health professionals; doctor termination based on patient quota; defamation actions for hospitals labeling doctors as “unproductive”; departing doctor’s ability to retain/retrieve patient records from network; impacts of listing in the National Practitioner Data Bank; non-compete clauses in the fine print; restraints placed on union picketing activities at hospitals; allocation of long-tail liability insurance coverage after partner’s departure; and more.

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Part 1. Introduction
- Overview of Healthcare Employment; Healthcare Conflicts and Physicians’ Dissatisfaction; Statistics and Structures of Healthcare Employment

Part 2. Physicians’ Employment Issues
- Physician Employment Qualifications; Practice Affiliations Among Physicians; Starting, Purchasing, or Separating from a Medical Practice; Physician Relations with Hospitals; Non-Employee Contract Roles for Physicians; Physician Employment Contracts; Restrictive Covenants in Physician Employment Contracts; Physicians and Collective Bargaining; Regulatory Oversight of Practitioners’ Employment

Part 3. How Other Healthcare Personnel Interact with Employers
- Nurses and Collective Bargaining; Impacts of the NLRA on the Healthcare Unit
- Classification Rules; Issues for Other Patient Support Employee Roles; Strikes and Lockouts in Healthcare Labor Conflicts; Employment Effects of Changes of Owners and Employers; Overtime Pay and Exempt Employees

Part 4. Issues for All Healthcare Personnel
- Safety Rules Protecting All Healthcare Workers; Employment Discrimination in Healthcare; Rules Applied to Public Sector Workers; Rules Applied to Non-Healthcare Workers in Hospitals; Outsourcing Staffing of Healthcare Institutions; Telemedicine; Stark and Anti-Kickback Compliance; Conflict Resolution by Arbitration; Future Trends

James O’Reilly teaches Public Health Policy & Systems at the University of Cincinnati College of Medicine, Cincinnati, OH. Mary Ellen Keegan is retired senior counsel for the General Electric Co., Cincinnati, OH.

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NLRA Rights in the Nonunion Workplace
By Kenneth T. Lopatka

An exploration of the NLRA’s application in the nonunion workplace.

NLRA Rights in the Nonunion Workplace concentrates exclusively on the broad application of the National Labor Relations Act (NLRA) outside the union workplace to help practitioners spot potential NLRA issues, understand the options and associated risks, and render sound advice to their clients.

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Chapter 7. Workplace Rules Vulnerable to Challenge on Overbreadth or Chilling Effect Grounds
Chapter 8. Denial of Access to Outsiders
Chapter 9. Screening Applicants to Identify Union “Suns”
Chapter 10. Employee Participation Programs
Chapter 11. Investigatory Pitfalls

Kenneth T. Lopatka is an attorney and adjunct professor of law in coastal South Carolina.

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By M. Scott McDonald and Jacqueline C. Johnson

Guidance for legal counsel assisting employers with unfair competition and IP protection issues.

Unfair Competition and Intellectual Property Protection in Employment Law: Contract Solutions and Litigation Guide comprehensively addresses employers’ key concerns and their full range of potential protections, providing a balanced look at all contractual options and litigation alternatives to protect against unfair competition and intellectual property theft.

The treatise includes:
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- Practical implementation and litigation avoidance advice (with checklists)
- Litigation advice and tactics

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M. Scott McDonald is an office-managing shareholder and serves on the board of directors at Littler Mendelson P.C., Dallas, TX.
Jacqueline C. Johnson is a shareholder at Littler Mendelson P.C., Dallas, TX.

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Gregory N. Dale and P. Matthew Shudtz, Editors-in-Chief

Occupational Safety and Health Law Committee, ABA Section of Labor and Employment Law

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—Eric E. Hobbs, Shareholder, Ogletree Deakins, Milwaukee, WI

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Gregory N. Dale is a partner with Faegre Baker Daniels, Indianapolis, IN.
P. Matthew Shudtz is Executive Director of the Center for Progressive Reform, Washington, DC.

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Matthew M. Franckiewicz is a labor and employment arbitrator who served as an NLRB attorney for 14 years. He has handled hundreds of investigations.

Daniel Silverman, former director of the NLRB’s New York Regional Office and former acting general counsel to the Board, is an adjunct professor of law and co-director of the Labor and Employment Clinic at the Benjamin N. Cardozo School of Law, Yeshiva University. He is an attorney, labor mediator, and arbitrator in Brooklyn, NY.

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Supplement Information

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- Arbitration and Its Setting
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- The Arbitration Tribunal
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- Safety and Health
- Employee Rights and Benefits
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- Constitutional Issues in Public-Sector Arbitration
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- Arbitration of Interest Disputes

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Kenneth May, Editor-in-Chief; Patrick M. Sanders and Michelle T. Sullivan, Associate Editors (Main Volume); Patrick M. Sanders and Wesley G. Kennedy, Associate Editors (2017 Supplement)
Committee on ADR in Labor and Employment Law, ABA Section of Labor and Employment Law

In Discipline and Discharge in Arbitration, Third Edition, experienced practitioners analyze the standards and rationales used by arbitrators in rendering their awards for cases involving absenteeism, insubordination, theft/falsification, off-duty behavior, negligence on the job, possession of drugs, fighting, and more.

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Norman Brand has been engaged in dispute resolution full time since 1983 and is a member of the National Academy of Arbitrators, a Fellow of the College of Labor and Employment Lawyers, a Fellow of the American College of Employee Benefits Counsel, and past president of the California Dispute Resolution Council. Mr. Brand has been voted a “Super Lawyer in ADR” in Northern California.

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Supplement Information

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- Evolution of the Role of ADR in Resolving Employment Disputes
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- Post-Hearing Stage
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- Empirical Evidence on Critical Issues Generally in Employment ADR and Under FINRA in Particular

Alfred G. Feliu is the principal of Feliu Neutral Services, LLC. He has over 30 years of experience in employment law, labor law, and commercial matters.

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By Roger I. Abrams

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Inside Arbitration includes a full chapter on the emerging field of employment arbitration (comparing and contrasting it with traditional labor arbitration procedure), as well as a chapter on mediation.

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Roger I. Abrams is the Richardson Professor of Law at Northeastern University School of Law, Boston, MA.

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Part III. Local, Intermediate, and Independent Unions by State and City

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Court Gifford is a former editor of Bloomberg BNA’s Daily Labor Report, Arlington, VA.

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Moira J. Kelly is an adjunct assistant professor at Marquette University Law School, Milwaukee, WI, and president of Kelly Consulting LLC, New Berlin, WI.

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Part I. Wage and Hour and Government Contract Laws
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Part IV. NLRA Concerns
Part V. Miscellaneous Issues
Part VI. Trust Fund and ERISA Concerns

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James W. Wimberly, Jr., Les A. Schneider, and Martin H. Steckel are senior principals at Wimberly, Lawson, Steckel, Schneider & Stine, Atlanta, GA.

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- Electronic communications and technology

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Karen L. Ertel is the Director of Bloomberg Law’s Labor, Employment, Benefits, and HR News Desk, Arlington, VA.
Theodore J. St. Antoine, Editor
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Theodore J. St. Antoine is the James E. and Sarah A. Degan Emeritus Professor of Law at the University of Michigan Law School, Ann Arbor, MI.

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Adolph M. Koven (deceased) was a prominent arbitrator for nearly 40 years. Susan L. Smith is with the University of California at San Diego, San Diego, CA. Kenneth May (deceased) was an arbitrator and lead editor of Labor Arbitration Reports, a component of Bloomberg BNA’s Labor Relations Reporter, Arlington, VA.

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Erica F. Schohn is a partner in the Executive Compensation and Benefits practice group at Skadden, Arps, Slate, Meagher & Flom LLP, New York, NY.
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Sharon F. Fountain, Esq., is Managing Editor for Compensation Planning at Bloomberg Tax, Arlington, VA.

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• Enactment of laws providing for fiscal year 2018 appropriations for the United States Patent and Trademark Office and the Copyright Office
• December 2017 decision of the Federal Circuit in In re Brunetti, which held that the Lanham Act’s bar on registration of immoral or scandalous marks is an unconstitutional restriction on free speech
• Adds provisions of P.L. 116-4, “Consolidated Appropriations Act, 2018,” which relate to FY2018 appropriations for the USPTO and the Copyright Office

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Jeffrey M. Samuels is Professor Emeritus of the University of Akron School of Law. He was formerly the David L. Brennan Professor of Law and Director, Center for Intellectual Property Law and Technology, at the University of Akron School of Law; the Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office; and Managing Editor of Bloomberg Law’s Patent, Trademark & Copyright Journal.

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David A. Einhorn is a partner with Scarinci Hollenbeck, New York, NY, where his practice focuses on intellectual property litigation and portfolio management, cybersquatting, commercial real estate litigation, international domain name arbitration, and insurance coverage matters.

Contributing chapter authors are members of the American Intellectual Property Law Association (AIPLA).

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- The Federal Circuit ruled that the assignment of an intent-to-use trademark application prior to the filing of a Statement of Use constituted an improper assignment prohibited under Section 1060(a)(1) of the Lanham Act
- The Ninth Circuit determined that if the licensor has never consented to the assignment of the trademark license agreement, the purported assignment is invalid
- The Federal Circuit allowed standing in Luminara Worldwide v. Liown Electronics where the licensee had all the exclusive rights to the asserted patents and the licensor retained some licensing rights

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Xuan-Thao N. Nguyen, B.A., J.D., is the Gerald L. Bepko Chair and Director, Center for Intellectual Property Law and Innovation, Indiana University Robert H. McKinney School of Law, Indianapolis, IN.

Robert W. Gomulkiewicz, B.A., M.A., J.D., is the UW Law Foundation Professor of Law and serves as Faculty Director of the Law, Technology & Arts Group at the University of Washington School of Law, Seattle, WA.

Danielle M. Conway, B.S., J.D., LL.M., is the seventh dean and first African American to lead the University of Maine School of Law. Previously, Dean Conway served as the Michael J. Marks Distinguished Professor of Business Law and Director of the Hawai’i Procurement Institute at the University of Hawai’i at Mānoa, William S. Richardson School of Law. She is also Of Counsel at Alston Hunt Floyd & Ing LLP.

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Lee A. Hollaar is Professor Emeritus at the University of Utah. Prior to retirement, Professor Hollaar’s research included software and hardware systems for text handling and retrieval (major support from the National Science Foundation and the Central Intelligence Agency), distributed systems, and data communications. He holds five United States patents on his research and has submitted or supervised the submission of a number of amicus briefs to the Supreme Court, including ones that first proposed the “foreseeability” test of Festo and “inducement” in Grokster.

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The Second Edition includes “Planning Pointers” and “Practical Checklists” related to the tax consequences of creating, acquiring, and transferring intellectual property; expanded coverage of popular tax planning strategies used in connection with IP; additional discussions in “plain English” of transfer pricing and cost sharing arrangements; and a chapter on estate planning and intellectual property.

Supplement Information

The 2017 Cumulative Supplement adds the following: explanation of new, favorable regulations with respect to the development of internal use software; summary of cases on tax treatments of writers and on charitable contribution of self-created copyrighted works; highlights of recent IRS rulings on the research tax credit, on the characterization of royalty income in a technology license, and on treatment of royalties received by non-profit organizations; summary of international tax regulations impacting cross-border intellectual property transactions; review of court decisions on the transfer pricing of intellectual property; summary of new rules for internet taxation for all 50 states; and more.

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Intellectual Property Technology Transfer, Second Edition

Aline C. Flower, Editor-in-Chief

A resource that demystifies the process of technology transfer—for both sides of the negotiating table.

This treatise provides the legal framework for the licensing and research among industry and federally and privately funded laboratories when negotiating technology development and high-tech transfer and associated intellectual property (IP) rights. The book offers a comprehensive analysis of all of the central legal issues confronting and governing the interactions between industry interests and research laboratories doing basic research, including national security and export controls on technologies, and regarding IP developed at universities, and international technology transfers.

Supplement Information

The 2016 Supplement adds discussion of the export control reform initiative, the international traffic in arms regulations, and the export administration regulations; new topics on fraud under the SBIR and STTR programs and on a new law limiting the government’s ability to withhold records under the FOIA exemptions; and the Federal Circuit’s decision in Lexmark.

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Chapter 5. Ownership of Intellectual Property in Academic Institutions and Other Federally Funded Research Settings
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Aline C. Flower is the associate general counsel for global development with the Bill and Melinda Gates Foundation, Seattle, WA.

Contributing chapter authors are experienced IP technology transfer practitioners.

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Technical standards, particularly for information and communications technology (ICT) industries, require use of patented technologies, as reflected by continuing growth in Wi-Fi and cellular standards. This trend will only increase as new or next-generation standards are developed for the Internet of Things, and yet unforeseen applications. Understanding issues relating to the use of patented technologies in technical standards is more important now for patent practitioners than ever before. Patents and Standards: Practice, Policy, and Enforcement is the definitive resource in this area and a must-have book for any patent practitioner working in the standards field. Patent prosecutors will use the book to understand the standards process and advise clients on strategies for patent preparation, prosecution, and portfolio development in the standards area. Patent litigators will use this book to understand the unique issues regarding enforcement of standard-essential patents (SEPs). In-house counsel who want to build more valuable SEP portfolios will use this book to develop portfolios, create effective licensing programs, and manage outside counsel.

Part I looks at the history, organizations, and policy considerations involved in setting standards. Part II offers best practices for patent prosecution and portfolio development for standards-related technology, including interfacing with engineers, portfolio development, preparation of SEPs, claiming strategies, and prosecution in the U.S. and other countries. Part III examines licensing and litigation issues for patents and standards, including FRAND licensing, antitrust issues, and litigation forum selection and remedies. Contributing authors provide their perspectives on the key issues in this complicated and contentious area, and offer practical guidance, charts, tables, timelines, practice tips, and more.

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Chapter 13. Litigation Overview and Forum Selection
Chapter 14. Litigation Royalties and Remedies

Michael L. Drapkin is a partner in the Intellectual Property Group at Holland & Hart in Denver, CO. Mr. Drapkin counsels some of the world’s most sophisticated and innovative technology companies on patent and standards. He focuses on managing the preparation and prosecution of standards-related patents in the United States and abroad, along with counseling, and opinion matters, and leads a team of 30-plus EE-focused patent attorneys, agents, and engineers.

This comprehensive treatise is a self-contained, single-volume desk-reference and guide to tactical and strategic patenting decisions for patent professionals after the most comprehensive revision to U.S. patent law since 1952, the America Invents Act (AIA). The AIA fundamentally altered U.S. patent law by transitioning from a “First-to-Invent” to a “First-Inventor-to-File” patent system. The pragmatic style of Patents After the AIA: Evolving Law and Practice provides insights and advice for patent application preparation and filing, post-issue review and challenges to patentability, and ongoing international patent law harmonization. It also provides historical and legislative discussions and practical foundational discourses.

Patents After the AIA: Evolving Law and Practice includes the following:

- More than 350 “Practice Tips”
- More than 100 original graphical timeline scenarios of different fact patterns analyzed under the AIA and compared to pre-AIA outcomes
- In-depth analysis and policy discussions of complex changes to the law
- A glossary of more than 400 terms and phrases

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The American Intellectual Property Law Association (AIPLA)

The AIPLA, founded in 1897, is a national bar association constituted primarily of lawyers in private and corporate practice, in government service, and in the academic community. It represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Its members represent both owners and users of intellectual property. For more information, visit www.aipla.org.
The PTAB Handbook, Third Edition

By Pillsbury Winthrop Shaw Pittman LLP; William P. Atkins, Editor-in-Chief

Practice before the Patent Trial and Appeal Board with confidence.

The PTAB Handbook, Third Edition comprehensively summarizes intellectual property (IP) decisions issued by the Patent Trial and Appeal Board (Board or PTAB) of the United States Patent and Trademark Office (USPTO) and their appeals into a single, useful reference that advises readers on the best methods for conducting work before the PTAB.

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As inter partes reviews are being filed in record numbers in 2017, and the decisions issuing from the PTAB continue to define uncharted areas and change even the existing caselaw, the Third Edition charts these new decisions to help readers employ the latest strategies in the most effective way.

Also in the Third Edition:

• Discussion of the most recent PTAB decisions, as well as the U.S. Supreme Court’s and Federal Circuit’s latest decisions
• Many more trends and insights into PTAB litigation

Revisions of this handbook are published three times per year on Bloomberg Law and provided in an annual print edition, and the book continues to expand along with the PTAB’s body of work.

"It is becoming more and more difficult to keep up with the fast-paced world of the PTAB…The PTAB Handbook is a mandatory resource that not only identifies the changes but it provides insightful comments on the likely impact while providing practical advice on how to best navigate the new landscape. It saves time and provides helpful advice."

—Terry Rea, former Acting and Deputy Director, U.S. Patent and Trademark Office

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Pillsbury Winthrop Shaw Pittman LLP is a full-service law firm with a keen industry focus on energy and natural resources, financial services, real estate and construction, and technology.

William P. Atkins is a partner in the Intellectual Property Section of Pillsbury Winthrop Shaw Pittman LLP; McLean, VA. Mr. Atkins has been lead counsel in more than 100 intellectual property litigations during his 25 years with the firm.

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European Patent Practice for U.S. Attorneys

By Edward J. Kelly, Ropes & Gray LLP; Charles D. Larsen, Anita Varma, and Christopher P. Carroll

Explore substantive and procedural differences between European patent law and U.S. patent law.

European Patent Practice for U.S. Attorneys helps U.S. patent attorneys, agents, and technical advisors obtain an understanding of both basic European patent law and how European patent rights are secured, develop European patent practice skills, avoid mistakes, and succeed at the European Patent Office (EPO). It provides a comprehensive overview of European patent law as compared to U.S. patent law focusing on key differences between the U.S. and the European Patent Convention (EPC). It also provides concise examples of various European patent prosecution techniques and procedural recommendations for EPO patent prosecution.

In particular, this guide helps attorneys decide whether to file for European patent rights on inventions that are important to a U.S. business, avoid mistakes made during the prosecution of a European application that can jeopardize the related U.S. patent position, expedite victory in the U.S. by learning how to successfully prosecute a European patent, and more.

Supplement Information

The 2017 Cumulative Supplement addresses changes made by the European Board of Appeals and the EPO’s Administrative Council to core principles of law under the EPC and changes made to procedures to Appeal and Opposition practice; considers and compares developments in European law, including decisions from the U.K. courts like Actavis v. Eli Lilly and HTC v. Apple and decisions from the European Boards of Appeal such as G 1/15, T 437/14, and Sharp-Kadushin Kaisha, and including EPO changes in regulations to exclude from patentability plants and animals exclusively obtained by an essentially biological breeding process; and examines proposed changes that may come into place under the Unified Patent Court and Unitary Patent regime, if adopted by the European States.

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Charles D. Larsen, Anita Varma, and Christopher P. Carroll are partners at White & Case LLP, Boston, MA.

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By Irah H. Donner
Effectively prepare and process a patent application, protect a client’s patent, or invalidate an infringing one.

This treatise provides essential analysis of significant changes to U.S. patent law resulting from decisions of the Supreme Court, the Federal Circuit, and the Patent Trial and Appeal Board. The book places new substantive discussions in context with existing patent laws and regulations and also explains prosecution rules from the U.S. Patent and Trademark Office (PTO). Written by a seasoned patent lawyer, the three-volume text offers an element-by-element analysis of areas of patent law that form the basis of common PTO rejections and objections. The work also discusses changes made (and still to come) in patent law and the America Invents Act.

Supplement Information

The 2018 Supplement adds discussion of:
- Supreme Court decisions in Matal v. Tam, ruling that the federal government’s ban on offensive trademark registrations violated the First Amendment; Star Athletica, LLC v. Varsity Brands, Inc., holding that decorative features of cheerleader uniforms were copyrightable; SCA Hygiene Products AB v. First Quality Baby Products, LLC, determining that the equitable defense of laches cannot be used as a defense to claims for infringement occurring during the six-year statute of limitations period; and Samsung Electronics Co., Ltd. v. Apple Inc., concluding that for a multi-component product, the relevant “article of manufacture” for damages under 35 U.S.C. §289 can be a component of that product, even though consumers could not purchase that component separately from the end product
- Skedco, Inc. v. Strategic Operations, Inc., where the Federal Circuit held that claims are not generally limited to inventions looking like embodiments in the drawings
- Aylus 2 Networks, Inc. v. Apple Inc., where the Federal Circuit held that statements made by a patent owner during inter partes review can support a finding of prosecution disclaimer and narrow the scope of the claims
- Cardiac Valve Technologies, Inc. v. Neovasc Inc., in which the Federal Circuit held the mere contribution of public knowledge, which could have been easily obtained by the named inventor, does not make one a co-inventor

“Irah’s thorough work … addresses both the law and the practice, making it an ideal guide for those working in the patent system on a day-to-day basis.” —David J. Kappos, former Director, U.S. Patent and Trademark Office (from the Foreword)

The accompanying searchable online appendix updated for the 2018 Supplement offers a comprehensive Cumulative Case Digest with an extensive compilation of precedential language, organized by specific issue, in favor of patentability.

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Electronic Appendices

Irah H. Donner is a partner in the Intellectual Property Department of Manatt, Phelps & Phillips, LLP, New York, NY.

2017/3 Volumes/7,356 pp. Hardcover with Electronic Case Digest and 2018 Supplement Order #P3502/$645.00
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Constructing and Deconstructing Patents, Second Edition
By Irah H. Donner

A step-by-step guide for drafting successful patent applications and assessing a patent’s strengths and deficiencies.

Reflecting changes made by the Leahy-Smith America Invents Act (AIA) and landmark Supreme Court decisions, Constructing and Deconstructing Patents, Second Edition walks the reader through the complex landscape of patent drafting. It provides a standard methodology that patent attorneys and agents can rely on to simplify the patent application process. Regardless of the particular type of patent or the complexity of its technical subject matter, this treatise helps ensure that each section of the patent application is carefully considered and fully developed before submission to the USPTO. Original, continuation, continuation-in-part, divisional, and provisional patent applications are covered in the text, and examples are taken from the invention types or technologies most frequently filed with the USPTO, including mechanical, electrical, and chemical patents.

The treatise also discusses the major areas of patent law that can affect the strength and vitality of a patent years after the patent was granted. Having this expert insight equips litigators, patent attorneys, and agents to deconstruct the major elements of a patent, assessing its strengths and weaknesses. This is especially important in the context of litigation, with respect to the completeness and satisfaction of the application’s requirements and in spotting weak or flawed elements that can be successfully challenged on legal grounds.

Changes in the Second Edition include the following:
- Conversion from a First-to-File to a First-to-Invent patent system, along with changes to definitions of prior art under 35 U.S.C. §102
- Discussion of Bilski v. Kappos; Mayo Collaborative Services v. Prometheus Laboratories, Inc.; Association for Molecular Pathology v. Myriad Genetics Inc.; and Alice Corp. Pty. Ltd. v. CLS Bank Int’l regarding patent-eligible subject matter
- Exclusion of tax strategies and human organisms from patent-eligible subject matter
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Irah H. Donner is a partner in the Intellectual Property Department of Manatt, Phelps & Phillips, LLP, New York, NY.

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Patents and the Federal Circuit, Thirteenth Edition

By Robert L. Harmon, Cynthia A. Homan, and Laura A. Lydigsen

The most complete commentary on the state of patent law.

This monumental reference deals with both the high-profile cases and the “uncelebrated decisions” that tend to slip under the radar and fits them into an analytical framework that reveals their true significance. Patents and the Federal Circuit addresses ever-changing issues and developments in substantive patent law, infringement litigation, and procedure. The authors distill the opinions issued by the primary source of governing law on patents, providing convenient, one-source access to controlling case law.

The Thirteenth Edition adds discussion and analysis of the following important new cases:

- The Supreme Court’s decision in SCA Hygiene Products Aktibolag v. First Quality Baby Products, LLC that laches does not bar damages for patent infringement where the infringement occurred within the six-year limitations period
- The Federal Circuit’s en banc decision in Medicines Co. v. Hospira, Inc. regarding the scope of a commercial sale for purposes of the on-sale bar
- The Supreme Court’s holdings in Impression Products v. Lexmark that single-use/no-sale provisions are unenforceable against third parties and that an authorized sale outside the United States exhausts U.S. patent rights
- Venue following the Supreme Court’s decision in TC Heartland v. Kraft that a corporation resides for purposes of venue only in the state of incorporation
- Liability for infringement of multi-component devices following the Supreme Court’s decision in Promega Corp. v. Life Technologies Corp.
- Operation of the so-called “patent dance” under the Biologics Price Competition and Innovation Act (BPCIA), including discussion of the Supreme Court’s decision in Sandiz Inc. v. Amgen Inc. and the Federal Circuit’s decision in Amgen Inc. v. Apotex Inc.
- The Federal Circuit’s recognition of an independent patent agent privilege that attaches to any communications between a client and a non-attorney patent agent in In re Queen’s University at Kingston
- Design patent damages in light of the Supreme Court’s holding in Apple Inc. v. Samsung Electronics Co. that the damages award for a design patent need not be the entire product sold but instead may be only a component of that product

Harmon on Patents: Black-Letter Law and Commentary

By Robert L. Harmon

A single-volume treatise that covers all substantive patent law issues at primary-source depth.

Harmon on Patents: Black-Letter Law and Commentary restates contemporary substantive patent law in a series of “black-letter” rules, with extensive commentary that thoroughly answers any patent law question. The book also thoroughly delves into fundamental decisions, explaining the reasoning behind the Supreme Court’s KSR decision and standards of patentability, eBay v. MercExchange and injunctive relief, the Federal Circuit’s en banc Seagate decision and willful infringement, and Microsoft v. AT&T and the role of foreign activities.

"Bob Harmon has combined more than 150 years of case law with his 45 years of experience into a one-volume treatise that achieves its intended purpose—it provides the answer to virtually any patent law question that a lawyer may encounter."

—Barry L. Grossman, Foley & Lardner LLP, Milwaukee, WI

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Robert L. Harmon (deceased) was a universally respected, meticulous, and successful patent litigator who also served as a special master, arbitrator, and expert witness in patent infringement cases. He worked at Brinks Gilson & Lione (Brinks), Chicago, IL, for 33 years.

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Part IX. Enforcement of a Patent: Substantive Aspects
Part X. Appellate Review of Patent Decisions

Robert L. Harmon (deceased) was a universally respected, meticulous, and successful patent litigator who also served as a special master, arbitrator, and expert witness in patent infringement cases. He worked at Brinks Gilson & Lione, Chicago, IL, for 33 years.

By Michael C. Elmer and C. Gregory Gramenopoulos

Calculate costs and benefits of patent litigation globally.

This unique and comprehensive treatise updated and offered in its Second Edition will help multinational companies and their counsel answer critical questions when developing and implementing an effective global patent litigation strategy. The book examines the costs, risks, and benefits of patent litigation in the most litigious and commercially developed countries in the world. It contains objective patent litigation data, including time and cost to trial and patentee win rates. Uniquely, the work provides a formula for putting a dollar value on filing a patent lawsuit anywhere in the world. The book also analyzes the procedural and substantive differences between different legal systems and includes distinctive “at a glance” charts allowing for clear cross-country comparisons.

The Second Edition also refines and expands on the analysis provided in the first edition of the book, and adds new country chapters for Belgium, Denmark, Mexico, Norway, and Sweden.

Among the topics covered and useful features are:

- Global forum shopping, becoming inter-country and issue-specific
- Data metrics and litigation tools to formulate strategies
- Developments in global patent litigation by region and industry
- Total patent infringement claim and damage valuation
- Rise of non-practicing entities (NPEs), which are poised to become global phenomena, as NPEs seek out courts where they can leverage the ability to obtain infringers’ profits and/or injunctions
- Overview comparative chapters that provide a global patent litigation “big picture”
- Discussion of global patent litigation strategies
- Updates concerning the Unified Patent Court in Europe
- Case study strategies for 23 countries and best global strategies using data, tools, actual valuation calculations, and answers to 15 key litigation questions

“If the world is literally the patent litigator’s playground, this treatise is the map and the legend to help you decide where to go.”

—Asha Puttaiah, Journal of the Patent and Trademark Office Society

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C. Gregory Gramenopoulos is a partner at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC.

Individual country chapters are authored by international experts.

Patent litigation data is provided by DARTS-IP, the global IP cases database.

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Patrick J. Coyne, Editor-in-Chief
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International Patent Litigation: A Country-by-Country Analysis offers critical information for practitioners conducting or directing patent litigation in a foreign country. Written by international experts in patent litigation and covering more than 33 countries and entities, each country chapter examines the rights of the patentee, activities that constitute infringement, ways in which claims are interpreted, courts that have jurisdiction, notices that must be served to the infringer, pretrial procedures, types of remedies and defenses, and appeals.

Supplement Information

The 2017 Supplement provides thoroughly updated chapters, following the book’s revised and expanded outline, for Germany, Malaysia, Mexico, and Sweden.

Highlights include:

- Germany’s review of the antitrust defense
- Malaysia’s expanded discussion on trial procedure
- Mexico’s proposed revisions to intellectual property law
- Sweden’s new specialized intellectual property courts

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Patrick J. Coyne is a partner at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC. His litigation experience includes patent, trademark, copyright, and trade secret claims; related antitrust and unfair competition issues; general commercial litigation; products liability; and domestic and international arbitration.

Individual country chapters are written by international experts.

Contributing chapter authors are members of the American Intellectual Property Law Association (AIPLA).

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Post-Grant Patent Practice, Second Edition

By Bruce H. Stoner, Jr., Nancy J. Linck, Carol A. Spiegel, and Richard Torczon

American Intellectual Property Law Association (AIPLA)

An invaluable guide to USPTO patent post-issuance procedures.

The Second Edition of Post-Grant Patent Practice, co-published with the American Intellectual Property Law Association (AIPLA), provides a complete reference guide to post-issuance procedures, helping patent professionals to challenge and defend patents and address possible mistakes made during the prosecution of a patent application, including mistakes made by the U.S. Patent and Trademark Office (USPTO). In-depth analysis offers a roadmap to post-grant practices under the AIA. The book’s authors—four former USPTO Administrative Patent Judges—provide guidance on AIA post-grant review, inter partes review, covered business method review, and derivation proceedings. The treatise also examines other post-grant procedures, including: reissue, ex parte and inter partes reexamination, disclaimers, certificates of correction, and interference practice.

Supplement Information

The 2016 Supplement adds:

- Changes to USPTO rules and guidance
- Decisions from the Patent Trial and Appeal Board (PTAB) and from the federal courts affecting post-grant practices
- Insight into how pending Supreme Court cases and proposed statute and rule changes might affect post-grant practice
- Revised tables and appendices, including the AIA, other statutes, and rules governing post-grant practices

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Nancy J. Linck, formerly served as the Solicitor for the USPTO and as an Administrative Patent Judge on the Board of Patent Appeals and Interferences (BPAI) of the USPTO, now the Patent Trial and Appeal Board (PTAB), and served as Chief Judge until his retirement from federal service, when he joined Greenblum & Bernstein PLC.

Carol A. Spiegel is a former Administrative Patent Judge on the BPAI of the USPTO, now the PTAB. Judge Linck is now with Linck Consulting in La Jolla, CA, where she serves as an expert and consultant on PTO matters.

Richard Torczon was an Administrative Patent Judge at the PTAB, where he worked on patent interferences and appeals. He is Of Counsel in the Washington, DC office of Wilson Sonsini Goodrich & Rosati.

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Patent litigation has assumed a pivotal role in today’s global economy. In response to the increased prominence of patents, the Complex Litigation Committee of the prestigious American College of Trial Lawyers (ACTL) has authored a manual that provides a balanced view of the issues in each phase of a patent case for judges and lawyers.

Anatomy of a Patent Case, Third Edition is a concise yet substantial handbook that expertly covers all steps required to bring a patent case to trial, and the key elements that make patent litigation unique.

The Third Edition, also provided to the Federal Judicial Center’s resource library for district court judges and their law clerks, offers essential insights from leading experts and judges. It adds a chapter on PTAB trials and their impact on patent litigation in federal courts; discusses changes in the law due to Supreme Court and Federal Circuit decisions, including what subject matter is eligible for patent protection; how the claim construction determination is to be made, and when attorneys’ fees should be granted; reviews amendments to the FRCP that alter pleading requirements; and much more.

“No better roadmap can be found to guide litigators or judges with limited or no personal experience in trying such cases through the maze patent enforcement litigation has become.”

—The Honorable Paul Michel, Chief Judge (retired), U.S. Court of Appeals for the Federal Circuit

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Harry J. Roper is a partner at Jenner & Block LLP, where he is Co-Chair of the firm’s Patent Litigation and Counseling Practice. He is past Chair of the Complex Litigation Committee of the ACTL and is a member of the Upstate Illinois Committee of the College of Trial Lawyers.

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George F. Pappas is a partner at Covington & Burling, LLP and is a member of the firm's national patent and IP litigation group. He is a past Chair of the ACTL Complex Litigation Committee.

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Schwartz’s Patent Law and Practice, Eighth Edition

By Robert J. Goldman

The source judges use to review patent issues.

Patent Law and Practice was first published by the Federal Judicial Center in 1988 as a one-volume introduction to patent law for federal judges. Since that time, judges and their law clerks have come to rely on this reference for up-to-date information on patent law as it has evolved in response to the courts, Congress, and changes in practice at the Patent and Trademark Office (PTO). Patent Law and Practice has been cited by courts more than 100 times since its initial publication, most notably in the Supreme Court decision Markman v. Westview Instruments, Inc.

The Eighth Edition summarizes and analyzes developments in the law, including the sweeping changes resulting from the Supreme Court and Federal Circuit decisions that have:

- Redefined the concepts of patent-eligible subject matter, paving the way for new validity challenges to patents covering software, and business methods, as well as those for diagnostic methods and other biotechnology inventions (the Mayo/Myriad/Alice trilogy and the Federal Circuit and District Court decisions that have implemented the new Supreme Court analysis)
- Redefined the standards for resolving challenges to claim indefiniteness and appeals of District Court claim construction decisions (Nautilus v. Biosig Instruments and Teva v. Sandoz)
- Redefined the concept of the “exceptional case” for which a successful litigant may recover its attorney fees (the Octane Fitness and Highmark decisions)
- Further changed the law of remedies, including the required proofs to obtain injunctive relief and declaratory relief, both generally and in the context of “standards essential patents” (the “cellphone war” cases, including Apple v. Samsung, Apple v. Motorola, Microsoft v. Motorola, and Ericsson v. D-Link Systems)

The Eighth Edition also analyzes the interplay between District Court litigation and the new procedures for post-grant challenges implemented by the PTO since enactment of the Leahy-Smith America Invents Act in 2011.

Herbert F. Schwartz, who originated this book, passed away in 2014. To honor his contributions to earlier editions and to the field of patent law, the book was renamed Schwartz’s Patent Law and Practice.

The Eighth Edition is authored by Robert J. (Bob) Goldman, a partner at Ropes & Gray in Silicon Valley, and a colleague and friend of Mr. Schwartz, who co-authored the Sixth and Seventh Editions. Bob Goldman has been a trial lawyer for 38 years, beginning at the IP boutique Fish & Neave, where he first worked with Mr. Schwartz on Polaroid Corporation’s landmark patent litigation with Eastman Kodak. That case resulted in a permanent injunction against Kodak’s product and a damages award of over $900 million. In the decades that followed, Bob has tried patent, copyright, and trade secret cases in technologies ranging from postage meters and medical devices to computer hardware and software, pharmaceuticals, and genetically engineered mice for drug development.

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William P. Atkins and Deborah E. Fishman, Editors-in-Chief; Gary M. Hoffman, Editor-in-Chief Emeritus

ABA Section of Intellectual Property Law

A complete guide to patent litigation with essential insights for protecting client interests.

This comprehensive handbook gives practitioners insights into patent litigation, from prelitigation considerations through post-grant patent practice. At every stage, the authors include specific, proven tactics for protecting clients’ interests. This invaluable treatise breaks down strategic reasoning behind every phase of patent infringement litigation and provides practice pointers, from prelitigation issues and initial client counseling through post-grant review. The book explores the perspectives and strategies of both patent owners and patent challengers, providing updates on the most recent trends in patent litigation and winning strategies from some of the country’s leading intellectual property attorneys.

Supplement Information

The 2017 Cumulative Supplement adds analysis of a number of Supreme Court rulings, among other new discussions:

- Samsung Electronics Co. v. Apple Inc.: in the case of a multicomponent product, the term “article of manufacture” is broad enough to encompass both a product sold to a consumer, as well as a component of that product
- TC Heartland LLC v. Kraft Foods Grp. Brands LLC: a patent infringement lawsuit against a domestic corporation may be brought only in (1) the state in which that defendant is incorporated or (2) where that defendant has committed acts of infringement and has a regular and established place of business; the Court declined to address any implication its ruling might have on venue in patent cases filed against foreign defendants
- Sandoz, Inc. v. Amgen, Inc.: the Court decided the first case construing the Biologics Price Competition and Innovation Act
- SCA Hygiene Products v. First Quality Baby Products: laches is not a defense against a claim for damages brought within the six-year limitations period of Section 286 of the Patent Act
- Impression Products, Inc. v. Lexmark Intern., Inc.: the Supreme Court found the sale of a patented item domestically or abroad exhausts the patent rights as to those items, regardless of any contractual restrictions on purchasers, but the Court distinguished the effect of such restrictions on licensees, which would not exhaust the patentee’s patent rights, at least until a sale to the end purchaser
- Kindred Nursing Ctr. Ltd. P’ship v. Clark: a court may invalidate an arbitration agreement based on “generally applicable contract defenses” like fraud or unconscionability, but not on legal rules that “apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue”

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William P. Atkins is a partner in the Intellectual Property Section of Pillsbury Winthrop Shaw Pittman LLP, McLean, VA. Mr. Atkins has been lead counsel in more than 100 intellectual property litigations during his 25 years with the firm.

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Chapter authors are members of the ABA Section of Intellectual Property Law.

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Patent Infringement Remedies

By Lawrence M. Sung

A key resource on the law and practice governing patent infringement remedies.

This essential guide helps patent practitioners advise clients on managing all aspects of their patent portfolios. Author Lawrence M. Sung—a patent attorney with more than 20 years of experience in patent counseling, litigation, and technology transfer—ties analyses of case law to examples of significant relief to clients whose patents have been infringed. The book covers the “A to Z” of patent infringement litigation, offering step-by-step guidance to determine whether patents have been infringed, as well as possible remedies, and encompassing litigation considerations, including model jury instructions.

This resource includes topical consideration of lost profit determinations; reasonable royalty damages determinations, including the Georgia-Pacific factors to be considered in calculating reasonable royalty; preliminary and permanent injunctions; willful infringement and exceptional case findings; the award of enhanced damages and attorneys’ fees; the award of interest and costs; limitations on damages recovery, including the $286 bar and marking; and special remedial provisions.

Supplement Information

The 2012 Cumulative Supplement addresses:

- Aero Prods., Inc. v. Int’l, Inc. v. Intex Rec. Corp. and duplicative recovery
- Poly America, L.P. v. GSE Lining Technology, Inc. and lost profits
- Uniloc USA, Inc. v. Microsoft Corp. and reasonable royalties
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Lawrence M. Sung is a registered patent attorney with a Ph.D. in microbiology who has over 20 years of experience in biotechnology, medical device and pharmaceutical patent counseling, litigation, and technology transfer. Dr. Sung has served as a consultant to the National Human Genome Research Institute and as a member of the National Academies Standing Committee on Emerging Issues and Data on Environmental Contaminants. He has also testified before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property on the role of gene patents.

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Electronic and Software Patents: Law and Practice, Fourth Edition

Steven W. Lundberg, Stephen C. Durant, and Ann M. McCrackin, Editors-in-Chief

American Intellectual Property Law Association (AIPLA)

Draft, prosecute, and manage a portfolio of electronic and technology patents.

Electronic and Software Patents: Law and Practice, Fourth Edition is a strategy guide that helps practitioners deal with today’s lightning-paced technological developments, changes in U.S. Patent and Trademark Office (USPTO) policy, and pivotal court rulings. In this step-by-step guide, experts provide perspectives and tactics, including guidance on tough decisions regarding patent protection, prior art, strategy, and drafting claims; lessons on preparing computer-related patent applications; insights on drafting with the appropriate scope; practice “tips and traps” for each step of the patent prosecution process; international drafting and prosecution strategies for Japan, the United States, and Europe, and where to file first; working with business method patents and design patents; in-house patent portfolio development; noninfringement and invalidity opinions; design-around techniques; and litigation of software patents.

The Fourth Edition added expanded discussions of patent eligibility after Alice, discussion of claims interpretation in inter partes review and other post-grant proceedings for patent drafters following Cuozzo, enhanced damages under the Patent Act after the Supreme Court’s decision in Halo Electronics, analysis of the impact of the Defend Trade Secrets Act, and more.

Supplement Information

New in the 2017 Supplement:

- The Supreme Court’s decision in Samsung Electronics Co., Ltd. v. Apple Inc., holding that a component of a product can embody a design just as easily as a complete product purchasable by a consumer
- The Supreme Court’s ruling in Life Technologies Corp. v. Promega Corp., addressing whether supply of a single component of a multicomponent invention can give rise to liability under §271(f)(1)
- Federal Circuit decisions upholding patent claims as patent eligible
- The Fifth Circuit’s decision in GlobeRanger Corp. v. Software AG that the Texas trade secret misappropriation law was not preempted by the Copyright Act
- Discussion of all precedent Federal Circuit cases involving computer-related technologies since Bilski and Alice, through mid-2017

“[A]ssembles a blend of academic and practically oriented chapters on how to draft and prosecute successful electronic and software patents.”


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Part V. Managing Patents in Business and Litigation

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Pharmaceutical Patent Law, Third Edition

By John R. Thomas

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Pharmaceutical Patent Law provides complete coverage of advanced topics, including the antitrust implications of patent settlements, the experimental use privilege, and international aspects of the field. Core topics covered include follow-on biologics; the substance and procedure of pharmaceutical patent acquisition; FDA marketing approval procedures for innovative and generic drugs, as well as FDA marketing exclusivities; the FDA’s Orange Book; and patent term extension standards.

Supplement Information

The 2017 Cumulative Supplement adds discussion of the following:

• The patent dance after the Supreme Court’s 9-0 decision in Sandoz v. Amgen
• The new rules of patent venue
• The 2016 final FDA rules
• Divided infringement and pharmaceutical patents

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John R. Thomas is a member of the faculty of Georgetown University Law Center, Washington, DC, and a widely published author in the field of pharmaceutical patent law. He frequently serves as a Special Master in patent litigation before the federal courts.

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By Kenneth J. Burchfiel (Main Volume); Howard W. Levine and Jennifer S. Swan (2017 Cumulative Supplement)

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Biotechnology and the Federal Circuit, Second Edition examines the court’s decisions in chemical, biotechnology, and pharmaceutical cases in the context of current law. It is essential for patent prosecutors, litigators, and in-house counsel alike.

The Second Edition offers full analysis of, and expert commentary on, en banc Federal Circuit and Supreme Court decisions that have rewritten the law of biotechnology inventions and altered the basic legal principles governing patentability and infringement. The book discusses the Hatch-Waxman Act and Supreme Court and Federal Circuit precedent concerning the safe harbor for medical and pharmaceutical research; patent term and term extension; and infringement and the various hierarchies of claim construction approved in Phillips v. AWH.

Supplement Information

The 2017 Cumulative Supplement provides full analysis of recent Supreme Court and Federal Circuit decisions, including:

• How the Federal Circuit has continued to interpret the Supreme Court’s decision in Mayo v. Prometheus and, in particular, how the various judges of the court addressed the permissible bounds of patent-eligible subject matter in Ariosa Diagnostics, Inc. v. Sequenom, Inc.
• The evolving standard of review for claim construction
• The continuing split regarding how differing panels of the Federal Circuit resolve the key issue of obviousness under Section 103 for biotechnology and pharmaceutical inventions
• The changed law of indefiniteness and its application by the court
• The treatment of the PTAB decisions in post-grant proceedings by the Federal Circuit

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D. Patrick O’Reilley (retired) was a partner with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC. He also teaches law at George Mason University’s Antonin Scalia Law School, Arlington, VA.

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D. Patrick O’Reilley (retired) was a partner with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC. He also teaches law at George Mason University’s Antonin Scalia Law School, Arlington, VA.

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Trademark & Copyright Law

**Trademark Litigation Practice**

By David S. Fleming and John T. Gabrieldes

Get the most practical guide to litigating trademark and other Lanham Act cases.

This treatise puts into context every aspect of Lanham Act cases, from pre-filing considerations to disclosures and discovery, through motion practice, trial, and post-trial proceedings. The book, written by seasoned trademark lawyers, also includes analysis of alternative proceedings that may be used in trademark cases, including oppositions and cancellations in the TTAB, Uniform Domain Name Dispute-Resolution Policy proceedings for domain names, International Trade Commission investigations, and alternative dispute resolution tools.

**Supplement Information**

New in the 2017 Cumulative Supplement:

- The Supreme Court's consideration of the Lanham Act's prohibition of disparaging trademarks in Matal v. Tam
- Updates to the TTAB chapter based on extensive revisions to the TTAB rules
- The Second Circuit's discussion of parody in Louis Vuitton Malletier v. My Other Bag

**Secondary Trademark Infringement**

By Jane Coleman and Griffith B. Price, Jr. (Main Volume); Jane Coleman and Naresh Kilaru (2017 Cumulative Supplement)

Thorough analysis and guidance on this rapidly growing area of intellectual property law.

This treatise is the first and only work that provides a comprehensive treatment of the law of contributory and vicarious trademark infringement, combining in-depth examination of the case law with expert practical insights into litigating secondary liability cases. Attorneys and business executives will benefit from its practical approach to detailed case law, analysis, commentary, and practice notes.

Practice notes feature real-world litigation examples and highlight substantive and procedural issues in secondary trademark infringement cases—from both the trademark owner's and the accused infringer's point of view. Issues covered include recovery of damages and injunctive relief and guidelines for trademark protection and enforcement, as well as risk management for internet service providers and other service providers. Beginning with the early “passing off” cases, this treatise covers the rapidly expanding areas of trademark law involving the internet.

**Supplement Information**

The 2017 Cumulative Supplement adds the following developments and new material:

- A section addressing a decision sustaining the contributory liability of a corporate parent for direct infringement by its subsidiary, examining Eclipse Aesthetics LLC v. Regenlab U.S.
- Whether a university would be liable as landlord for the infringing acts of the residents of a fraternity house, decided in Theta Chi Fraternity, Inc. v. Leland Stanford Junior Univ.
- Circumstances under which corporate officers could be held indirectly liable for direct infringement by their corporations in ADT LLC v. Sec. Networks, LLC and Luxottica Gps., S.p.A. v. Grembriar Marketplace II, LLC
- Should the court consider evidence of counterfeit and knock-off sales of trademark-branded products other than those of the plaintiff in the flea-market context? The Northern District of Georgia held such evidence to be potentially relevant in its ruling in Luxottica Gps., S.p.A. v. Airport Mini Mall, LLC
- Does a defendant's delay in removing allegedly infringing items from its online marketplace trigger contributory liability? The Northern District of California considered that question in Spy Phone Labs LLC v. Google Inc.
- ISC v. Security University, in which the Second Circuit discussed nominative fair use
- The Seventh Circuit's consideration of functionality in Arlington Specialties v. Urban Aid
- Huson USA v. Hyson 2U, where the Seventh Circuit addressed the defense of acquiescence
- The Tenth Circuit's analysis of packaging trade dress in Forney Industries v. Daco of Missouri

David S. Fleming is a shareholder in the Chicago, IL, office of the intellectual property firm of Brinks Gilson & Lione.

John T. Gabrieldes is a partner in the Chicago, IL, office of Barnes & Thornburg LLP and a member of the firm’s Intellectual Property Department.

2010/804 pp. Hardcover with 2017 Cumulative Supplement
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Order #3303/$290.00

Supplement History: 2016, $285.00/2015, $285.00

New Cumulative Supplement Due Winter 2018
www.bna.com/bnabooks/sti

="The book is logically and meticulously well-organized and easy to read and use as a reference. Enhanced by an engaging and user-friendly writing style, and a straightforward approach to its subject, the book offers analysis of the applicable case law as well as practice notes. It’s an instant necessity for the desktop or bookshelf of any serious trademark practitioner.”

—Robert C. Cumbow, Attorney, Graham & Dunn PC

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Jane Coleman is creator and author at secondarytrademarkinfringement.com, and a former Assistant Director in the Legal Affairs department for the national office of the Anti-Defamation League, New York, NY.

Griffith B. Price, Jr. (retired) was senior counsel at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC.

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2013/632 pp. Hardcover with 2017 Cumulative Supplement
Order #P3291/$340.00

Order #3291/$225.00

Supplement History: 2016, $215.00/2015, $210.00

www.bna.com/bnabooks/sti
Products Comparison Manual for Trademark Users, Fourth Edition

By Francis M. Pinckney; David R. Higgins, Contributing Author

The only resource available for product comparisons with cites to U.S. Patents Quarterly, unpublished decisions of the TTAB, PTO's Official Gazette, and TTAB proceeding numbers.

The Fourth Edition of this essential trademark resource guides practitioners through the Trademark Trial and Appeal Board's (TTAB) and the federal courts' findings on similarity of products for trademark registration and enforcement. Trademark practitioners who are investigating similarity or dissimilarity of goods at issue can determine, quickly and easily, whether there are any decided cases that have compared with other products the products under consideration by the user, and can find citations for all such cases. The book compiles and indexes 88 years of TTAB and federal court decisions on product comparisons and whether likelihood of confusion was found, and allows practitioners to search the book's entire contents electronically on an accompanying CD-ROM.

To help practitioners conduct the most complete and efficient search possible of similar products, the authors have analyzed the findings of the courts and/or the Board in order to impose editorial uniformity on the descriptions of products listed in the cases and have assigned U.S. Class numbers to each product. The Fourth Edition also covers TTAB proceedings and court decisions from 1929 through December 2016, and contains more than 90,000 product comparisons, including approximately 1,500 comparisons from 2016 alone.

The Fourth Edition was extensively reviewed to refine and reorganize the descriptions and reduce duplicate entries to make it the most complete and effective reference possible. It also includes citations for every comparison, making it easy to find decisions on the Patent and Trademark Office (PTO) website or in Bloomberg Law for subscribers.

Supplement Information

The 2018 Supplement covers TTAB and court proceedings through December 31, 2017, and contains approximately 1,200 new comparisons from 2017. The accompanying CD-ROM fully incorporates the new data into the Fourth Edition, providing one seamless data file spanning 89 years.

“(P)rovides product comparisons in the likelihood of confusion analysis more accurately and in less time than any case law or headnote search, even using the most sophisticated electronic legal research databases…. [It] will pay for itself many times over in cost savings on legal research.”


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Preface
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How to Use This Book
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U.S. Classes

Francis M. Pinckney, retired, was Of Counsel at K&L Gates LLP, Charlotte, NC, where he focused his practice solely on intellectual property. Mr. Pinckney received his Juris Doctor degree (with Honors) from the George Washington University Law School, Washington, DC. He was listed in “The Best Lawyers in America” from 1995 to 2010, when he retired.

David R. Higgins is with the firm of Tillman Wright PLLC, Charlotte, NC, where his areas of practice include patent and trademark law, with a particular focus on patent preparation and prosecution.

2017/2,206 pp. Hardcover with 2018 Supplement with CD
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Copyright Law Deskbook, Second Edition

By Robert W. Clarida

A complete guide to game-changing issues in U.S. copyright law, from fair use to digital rights.

The Copyright Law Deskbook, Second Edition addresses the law and practice of copyright, with an emphasis on key case law developments. It explores decisions in which existing copyright content is being aggregated, adapted, and distributed in ways unforeseen by Congress when it passed the Copyright Act in 1976. The book covers significant aspects of the law, including fair use, work for hire, copyrightability, digital rights and the Digital Millennium Copyright Act, international considerations, damages, formalities, preemption, and litigation issues.

Supplement Information

The 2017 Supplement includes the following: Supreme Court rulings in Star Athletica LLC v. Varsity Brands, Inc. that graphic designs in cheerleading uniforms could be copyrightable, and holding lower courts' decisions in Kirtsaeng II on considering reasonableness of the defendant's position when awarding attorneys' fees. It also adds a New York Court of Appeals decision arising from Flo & Eddie v. Sirius XM Radio, holding that there is no right of public performance for pre-1972 sound recordings under New York law, and much more.

An updated online Cumulative Case Digest that covers every significant copyright law decision from 1993 to May 18, 2017 accompanies the 2017 Supplement.

“Anyone with questions about copyright law would be well advised to look for the answers in Robert Clarida's Copyright Law Deskbook. There is no one more knowledgeable than Bob, who always manages to explain complicated issues in a way that not only experts, but those who are new to the field, can readily comprehend. I highly recommend this book, which is a well-written, valuable guide to understanding the basics and the intricacies of copyright law.”

—Judith M. Saffer, Assistant General Counsel, Broadcast Music Inc., New York, NY; Former President of the Copyright Society of the USA; Former President of the AIPLA; President of the AIPPI-US (on the First Edition)

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Robert W. Clarida is a partner at Reitler, Kailas & Rosenblatt, LLC, New York, NY, and a noted author and speaker on copyright. He is a past trustee of the Copyright Society of the USA and a past member of the Board of Directors of the American Intellectual Property Law Association.

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Trademark & Copyright Law

New Edition!

Trademark Infringement Remedies,
Third Edition

Steve Meleen, Editor-in-Chief

ABA Section of Intellectual Property Law

Detailed, practical analysis of the full range of federal and state remedies.

This treatise provides trademark owners and their counsel the guidance they need to effectively defend and protect their brands and maintain the value of trademarks. It covers all aspects of trademark rights, liabilities, and remedies, as well as the civil infringement remedies available today in federal and state courts, and provides keen insight from expert practitioners.

The Third Edition discusses necessary elements in establishing liability for trademark and unfair competition; principles for equitable relief and the impact of bad faith on a practitioner’s case; issuance of preliminary and permanent injunctions; wrongful seizure of another’s goods occurring in the area of “extraordinary” relief; attorneys’ fees; availability of special enforcement remedies; relief and remedies under state law for infringement and unfair competition; and special relief available in counterfeiting cases.

The thoroughly revised Third Edition includes extensively updated chapters on The Origins of Trademark Rights and the Nature of the Interests Protected, and General Principles. Other new discussions include the following:

- The Federal Circuit’s ruling in Princeton Vanguard, LLC v. Frito-Lay North America, Inc., rejecting the Trademark Trial and Appeal Board’s statement that there are two different tests that can be used to analyze genericness
- The Federal Circuit’s decision in In re Driven Innovations, Inc., in which the court explained that when a mark fails to cause an “instantaneous” mental leap to the attributes of the goods or services, suggestiveness is strongly indicated
- In Romag Fasteners, Inc. v. Fossil, Inc., the Federal Circuit (applying Second Circuit law) reviewed the state of the law in the Second Circuit and concluded that willfulness is a requirement for an award of profits
- Expanded discussions on plaintiff’s damages, including barriers to double recovery and measurement of lost profits
- Examination of how courts are treating requests for fees after Octane Fitness, including decisions by the Fifth Circuit in Vetter v. McAtee and the Ninth Circuit in SunEarth, Inc. v. Sun Earth Solar Power Co.

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Steve Meleen is Managing Member of Pirkey Barber PLLC, Austin, TX. He has specialized in trademark law with Arnold White & Durkee since 1996.

Contributing chapter authors are members of the ABA Section of Intellectual Property Law.

Trademark Dilution: Federal, State, and International Law, Second Edition

By David S. Welkowitz

Get the most complete discussion on the complex laws governing trademark dilution protection.

This useful treatise helps sort through the controversy and confusion surrounding the Trademark Dilution Revision Act of 2006, the ways in which the Act makes clear that the likelihood of dilution is the standard for analyzing federal dilution claims, and the complications that may arise under state law.

Trademark Dilution: Federal, State, and International Law provides thorough coverage of state dilution statutes and cases, and organizes the topic of dilution into easily usable chapters, each devoted to an important subtopic of dilution. The Second Edition features rich, detailed, and expanded discussions in key areas and useful citations of federal, state, and international dilution law. It analyzes major cases including Rosetta Stone v. Google; Starbucks v. Wolfe’s Borough Coffee; Research in Motion Ltd. v. Defining Presence Marketing Group, Inc.; Nike, Inc. v. Maher; and Rolex Watch U.S.A. Inc. v. APF Imaging Corp.

Supplement Information

New in the 2017 Cumulative Supplement:

- The impact of the Supreme Court’s decision in Matal v. Tam, finding the Lanham Act’s provision barring registration of disparaging marks to be unconstitutional. Although the decision involved registration, its implications for dilution, especially tarnishment, are very broad (Chapters 8–10)
- The Second Circuit affirmed the fair use decision involving Louis Vuitton and “My Other Bag” (Chapter 10), plus many new cases affirming existing trends are added throughout
- Action involving state dilution laws, possibly due to a recognition by trademark owners that demonstrating fame under the TDRA is not as easy as it was under the original federal statute (Chapters 2–5)
- Citations to dilution statutes around the world, including new case law in Europe, Hong Kong, and Canada, and case law updates tracking global trademark dilution developments (Chapter 15)

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David S. Welkowitz is a Professor of Law at Whittier Law School, Costa Mesa, CA.

Order #P3299/$510.00

Order #3299/$235.00
Supplement History: 2016, $225.00/2015, $220.00

New Cumulative Supplement Due Fall 2018

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Health Care Fraud and Abuse: Practical Perspectives, Third Edition
Linda A. Baumann, Editor-in-Chief
ABA Health Law Section

Insights on existing laws, regulations, case law, and government standards.

Health Care Fraud and Abuse: Practical Perspectives, Third Edition outlines in detail the existing fraud and abuse laws, regulations, case law, and other government activity. This incomparable treatise provides assistance in structuring business arrangements, avoiding statutory and regulatory pitfalls, defending clients against government investigations and litigation, implementing effective corporate compliance programs, and more.

Supplement Information
The 2017 Cumulative Supplement contains:
• The government’s enforcement efforts against individuals and organizations, including increasing use of parallel civil and criminal investigations
• Fraud and abuse in managed care, covering new enforcement actions, updated Medicare marketing guidelines, new safe harbors, the pending UnitedHealthcare case on recovering overpayments, and more
• DOJ guidance on evaluation of corporate compliance programs and guidance from OIG and HCCA on measuring effectiveness
• Practical tips on FCA investigations and litigation, including the public disclosure bar defense, Brady disclosures to obtain agency exculpatory evidence, and settling with a relator
• Stark law developments, including a new self-referral disclosure protocol, the prohibition against “per unit of service” compensation, and Stark FCA settlements
• Notable settlements with medical device manufacturers, pharmaceutical companies, hospitals, and others; government investigation into patient assistance programs; and malpractice lawsuits related to fraud and abuse advice provided
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Linda A. Baumann is a partner at Arent Fox, Washington, DC, where she specializes in health care fraud and abuse and compliance.

Contributing chapter authors are members of the ABA Health Law Section.

2013/1,280 pp. Hardcover with 2017 Cumulative Supplement
Order #3244/$525.00
2017 Cumulative Supplement alone/ISBN 978-1-68267-244-0
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Supplement History: 2016, $266.00/2015, $255.00
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Healthcare Employment Guide: Counseling on the New Medical Realities
2017-2025 will bring a harsh dose of economic reality for doctors and their counsel. This unique guide will help bring clarity to chaos.
See Page 14 for more details.

Prosecuting and Defending Health Care Fraud Cases, Third Edition
By Michael K. Loucks

A definitive guide to investigations and prosecutions in health care fraud cases.

Prosecuting and Defending Health Care Fraud Cases, Third Edition covers health care fraud from two distinct angles: the applicable law and the federal criminal process for health care fraud cases. This book analyzes trials conducted in a variety of cases, with chapters structured to match the process as it actually takes place during the investigation, after charges are brought, and through sentencing. It presents possible charges, investigative tools, proven trial strategies for both prosecution and defense, considerations for settlement of a prosecution or civil suit, and applicable sentencing factors.

The Third Edition includes: analysis of the U.S. Supreme Court decision in Escobar; a thorough review of the current state of balance between the laws and regulations regarding off-label promotion and the right to free speech set forth in the First Amendment; the addition of “substantial financial hardship” language to the Sentencing Guidelines to enhance punishment for victim or mass marketing offenses; discussion of Luis v. United States and the pretrial freezing of a defendant’s assets; and more.

Supplement Information
The 2017 Supplement includes:
• Updated cumulative tables of health care fraud settlements exceeding $1 million, including more than 30 settlements of $100 million or more since 2010, as well as analysis of the frequency of settlements overall and in particular industry segments, by year
• Circuit court decisions regarding the Supreme Court’s Escobar materiality requirement on false certification
• CMS regulations on incentives for Advanced Payment Models, in part using MIPS, likely leading to future prosecutions for false claims about achieving quality measures
• Updates to the comprehensive examination of virtually every anti-kickback OIG Advisory Opinion issued since 1997, including opinions on drug copayment coupon programs, providing transportation and short-term lodging for patients, and more
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Michael K. Loucks is the former Acting U.S. Attorney and First Assistant U.S. Attorney for the District of Massachusetts. He is now a litigation partner with Skadden Arps, LLP, Boston, MA.

2016/1,408 pp. Hardcover with 2017 Supplement
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Federal Health Care Discrimination Law assists health care providers and plans in understanding the laws that address discrimination in health care and coverage. ACA Section 1557 and related laws require new inquiries into health care operations, affecting the terms, conditions, and administration of coverage; plan and provider communications with enrollees and patients; and hospital administration and rules of conduct.

This treatise includes discussion of:

- The major categories of discrimination—race, color, national origin, sex, disability, and age—and how they have been applied in the health care context
- Duties under Section 1557 and the other Federal financial assistance (FFA) Acts, including when a health program or activity is subject to them
- The Mental Health Parity and Addiction Equity Act (MHPAEA) and the complex regulatory schemes interpreting it, as well as state and federal mental health parity acts
- Application of discrimination law to private coverage such as employer-provided and individual insurance
- Requirements of Federal health coverage programs, including Medicare, Medicaid, FEHBP, and TRICARE
- Implementation of laws regarding Limited English Proficiency and communication disabilities in health care settings

The treatise also contains key sample policies and checklists, provided by the American Health Lawyers Association, covering non-discrimination language for plan-provider agreements, notice and tagline compliance, fitness for duty, drug testing, LGBT-inclusive visitation, and more.

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David Didier Johnson is a partner in Michelman & Robinson, LLP’s San Francisco office, where he practices in the firm’s Health Care Department. He primarily represents health plans and health care providers in the courtroom and before regulators. He is a past Chair of the California State Bar Health Law Committee.
and ethical issues associated with the increased use of health information technology, social media, and digitized patient records.

**Supplement Information**

The 2017 Supplement discusses:

- Telemedicine, with a brand new overview chapter covering issues such as modalities, reimbursement, and mobile applications
- Multiple HIPAA enforcement resolution agreements arising from OCR investigations of alleged security rule infractions
- The new draft E-Privacy Regulation and other developments in the European data privacy regime
- Ransomware, including OCR’s informal guidance on such attacks under the Breach Notification Rule
- Updates on OCR’s Phase 2 HIPAA Audit Program, as well as active enforcement of the HIPAA Security and Privacy rules
- Legal ethics issues, including attorneys as whistleblowers, use of biometric data, and artificial intelligence
- The Part 2 Final Rule issued by HHS’s SAMHSA, updating regulations on substance abuse
- The Federal Policy for the Protection of Human Subjects Final Rule and the new exemption for secondary research
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Contributing chapter authors are members of the ABA Health Law Section.

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New Edition!
False Claims Act: Whistleblower Litigation, Seventh Edition
By James B. Helmer, Jr.

Effectively litigate qui tam cases with this definitive guide. This treatise provides guidance on analysis of the False Claims Act and the legislative developments and judicial opinions surrounding it. It offers insightful and authoritative experience on the subject from the trial lawyer called to testify before Congress on ways to modernize, update, and streamline the Act in the 1980s and again in 2008.

False Claims Act: Whistleblower Litigation comes with a downloadable, searchable PDF, providing letters, complaints, statements, interrogatories, requests, motions, and affidavits.

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- The U.S. Supreme Court’s decision in Rigsby and a full analysis of all Supreme Court decisions on the False Claims Act
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- How courts are applying the amended public disclosure bar
- Material on enforcing arbitration agreements in False Claims Act cases
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James B. Helmer, Jr., is a senior partner and President of Helmer, Martins, Rice & Popham Co., L.P.A., Cincinnati, OH. Mr. Helmer has obtained several multimillion-dollar jury verdicts and has been trial counsel in more than 300 published legal decisions, including more than 100 dealing with the False Claims Act. His False Claims Act cases have returned nearly $1 billion to taxpayers and have resulted in 15 criminal indictments. He argued the false claims act before the United States Supreme Court.

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Samuel Rosenthal is a partner of Nelson Mullins Riley & Scarborough in the Washington, DC and New York offices, where he is a member of the White Collar Defense & Government Investigations Team. He is a former chief of the DOJ Appellate Section of the Criminal Division.

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Kevin T. Abikoff is a partner at Hughes Hubbard & Reed, LLP, Washington, DC.
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Joan E. Meyer is a partner in Baker McKenzie’s Washington, DC office, where she has handled numerous investigations and resolutions with enforcement authorities. Previously, she was senior counsel to the Deputy Attorney General at the U.S. Department of Justice, where she advised on corporate charging policies, corporate monitorships, and complex criminal litigation and corporate settlements. She also managed the operation of the President’s Corporate Fraud Task Force. Ms. Meyer was the First Assistant United States Attorney and Criminal Chief of the United States Attorney’s Office in the Western District of Michigan.

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Philip Allen Lacovara is senior counsel in Mayer Brown LLP, New York, NY. He previously served as a law clerk on the U.S. Court of Appeals for the District of Columbia Circuit and as Chair of the Court’s Committee on Practice and Procedure. He served as assistant to the Solicitor General (Thurgood Marshall), as Deputy Solicitor General of the United States, and as counsel to the Watergate Special Prosecutor.

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Stephen M. Shapiro is a partner in Mayer Brown LLP, Chicago, IL, and a former deputy solicitor general of the United States.
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Matthew H. Solomson is Chief Legal Officer, Federal Government Solutions at Anthem, Inc., where he oversees all legal and compliance staff in the federal contracting business unit. He previously led the government contracts group within the law department of Booz Allen Hamilton Inc., served as counsel at Sidley Austin LLP, and as a Trial Attorney with the Commercial Litigation Branch of the U.S. Department of Justice.

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Harry J. Roper is a partner at Jenner & Block LLP, where he is past Co-Chair of the firm’s Patent Litigation and Counseling Practice. He is past Chair of the Complex Litigation Committee of the American College of Trial Lawyers and is a member of the Upstate Illinois Committee of the College of Trial Lawyers.

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Kurt M. Heyman is a founding partner at Heyman Gattuso & Hirzel LLP, Wilmington, DE. Since clerking for the Delaware Court of Chancery in 1991-92, Kurt’s practice has focused on corporate and commercial litigation in that Court, including some of the leading business divorce cases of the past decade. Kurt is a founding Co-Chair of the Business Divorce Subcommittee of the ABA Business Law Section, Business and Corporate Litigation Committee.

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Sarah Johnson Auchterlonie is an Adjunct Professor of Law at the University of Denver School of Law and Partner at Brownstein Hyatt Farber Schreck, LLP. Previously, she managed a team of CFPB enforcement attorneys as an Assistant Litigation Deputy and an Acting Deputy Enforcement Director. She’s worked on scores of CFPB enforcement, supervision, and litigation matters, including the CFPB’s first administrative adjudication, Matter of PHH, et. al. Prior to the CFPB, she worked as a trial attorney at the Treasury Department’s Office of Thrift Supervision (OTS) during the height of the U.S. financial crises.

Alexandra Everhart Sickler is an Associate Professor of Law at the University of North Dakota School of Law, where her scholarship focuses on consumer finance regulation and consumer bankruptcy law. Before that, Ms. Sickler was a trial attorney in the Office of General Counsel of the Executive Office of U.S. Trustees in the U.S. Department of Justice, and practiced bankruptcy and complex commercial litigation with Weil, Gotshal & Manges, LLP.

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Kevin C. Taylor started in technology law at Brown Rayzman in the first internet boom of the late 1990s. During his career he has represented companies in all corners of the financial services industry: banking, securities, insurance, and credit card companies. He currently represents some of the largest financial companies in the world in the acquisition and use of technology.

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Emanuel Burstein holds a B.A. from Brandeis University, a J.D. from Boston College Law School, and an LL.M. in taxation from the New York University School of Law. He addressed insurance tax issues at the Office of Chief Counsel at the Internal Revenue Service and was the editor of The Insurance Tax Review.

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Adam P. KohSweeney is a partner at O’Melveny & Myers LLP, San Francisco, CA.
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Leslie King is a former tax law editor at Bloomberg BNA Tax & Accounting and currently serves as the assistant general counsel at the District of Columbia Retirement Board, Washington, DC.

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