

## Intellectual Property Litigation

*Information Technology and Intellectual Property Law & Civil Litigation Section*



In-Person



Webcast

**Date:** Tuesday November 22, 2016  
9:00 am to 4:30 pm

**Location:** Twenty Toronto Street Conferences and Events  
20 Toronto Street, 2<sup>nd</sup> Floor, Toronto

**Program Chair:** **Lorraine Fleck**, Fleck Innovation Law  
**Paul Lomic**, Lomic Law  
**Geoffrey Mowatt**, DLA Piper (Canada) LLP



This program is eligible for up to 6.0 Substantive Hours  
This program is eligible for up to 0.5 Professionalism Hours

The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

The litigation of intellectual property (“IP”) matters, from patents to trademarks to copyright, can be a complicated and ever-changing endeavour. Get all the expert insights you need on an array of critical IP litigation topics, both in respect of the case on the merits and essential interlocutory proceedings. Gather key strategies and take away helpful precedents to enhance your IP litigation practice.

Participants will receive a copy of the book *Intellectual Property Litigation: Forms and Precedents* (LexisNexis, 2016) by Paul Lomic (ed.) as the materials for the program. Each of the speakers will be presenting on the subject of their chapter in the book.

8:30 am	Registration and Coffee	
9:00 am	Welcome and opening remarks	
	<b>THE CASE ON THE MERITS</b>	
9:05 am	<b>Patent Litigation Fundamentals</b> <b>Bryan Norrie</b> , Aitken Klee LLP (Ottawa)	
	<ul style="list-style-type: none"><li>Valuable advice for selecting your forum</li><li>How to enhance your pleadings</li><li>Key principles in expert evidence</li></ul>	
9:25 am	<b>Commencing Trademark Litigation</b> <b>Mark Edward Davis</b> , Belmore Neidrauer LLP	
	<ul style="list-style-type: none"><li>Strategic considerations when deciding whether to proceed by way of action or application</li><li>What you need to know about anti-counterfeiting and gray marketing</li><li>Exploring the available remedies</li></ul>	
9:45 am	<b>Rights and Remedies under the Copyright Act</b> <b>John Cotter</b> , Osler, Hoskin & Harcourt LLP	
	<ul style="list-style-type: none"><li>Brushing up on copyright claims and defences</li><li>Distinguishing between primary and secondary infringement</li><li>How do moral rights fit in?</li></ul>	
10:05 am	<b>How to Respond to a Breach of Confidentiality</b> <b>Inna Koldorf</b> , Koldorf Stam LLP	
	<ul style="list-style-type: none"><li>Defining confidential information and an employee’s obligations</li><li>Pre-litigation mitigation strategies</li><li>Helpful guidance for seeking interim remedies</li></ul>	
10:25 am	Networking Break	
10:40 am	<b>Litigation of Counterfeit Goods</b> <b>Lorne M. Lipkus</b> , Kestenberg Siegal Lipkus LLP <b>Georgina Starkman Danzig</b> , Kestenberg Siegal Lipkus LLP	
	<ul style="list-style-type: none"><li>How to secure evidence of counterfeiting activities and counterfeit goods</li></ul>	
		<ul style="list-style-type: none"><li>Techniques for maximizing criminal and border service enforcement regimes to protect your clients’ IP</li></ul>
11:10 am	<b>Mastering Financial Remedies in IP Disputes</b> <b>Ephraim Stulberg</b> , MDD Forensic Accountants	
	<ul style="list-style-type: none"><li>How to determine which financial remedy to pursue: Opportunities and challenges in lost profits, accounting of profits and reasonable royalties</li><li>Essential information requests and discovery questions to get you the facts you need</li></ul>	
11:30am	<b>Litigation of IP Issues in the Superior Court</b> <b>Yuri Chumak</b> , Chumak & Company LLP <b>Catherine Lovrics</b> , Bereskin Parr LLP <b>Ariel Neuer</b> , Neuer <b>Zarya Cynader</b> , Gilbert’s LLP (Moderator)	
	<ul style="list-style-type: none"><li>When should you be litigating in the Superior Court?</li><li>Making sense of the similarities and differences</li></ul>	
12:20pm	Questions	
12:30pm	Lunch with the Authors	
	<b>CRITICAL INTERLOCUTORY PROCEEDINGS</b>	
1:30pm	<b>Making the Most of Case Management</b> <b>Chris Wilson</b> , Bull, Housser & Tupper LLP (British Columbia)	
	<ul style="list-style-type: none"><li>The benefits of case management</li><li>Understanding the implications of a Direction of the Court versus an Order</li><li>Helpful advice for navigating a case managed file</li></ul>	
1:50pm	<b>What You Need to Know About Bifurcation</b> <b>John Simpson</b> , Shift Law	
	<ul style="list-style-type: none"><li>When should you seek or oppose bifurcation?</li><li>What evidence do you need to put forward to support a motion for bifurcation?</li></ul>	

**PROGRAM REGISTRATION IS ONLINE** [www.oba.org/pd](http://www.oba.org/pd)

Questions? [pd@oba.org](mailto:pd@oba.org)

2:20pm **Obtaining an Order to Inspect Documents or Property**

[Kaitlin Soye, McCarthy Tétrault LLP](#)

- Best practices for seeking an order for inspection of documents
- Key factors to be considered when seeking an order for inspection of property
- What you need to know about experimental testing

2:40pm Networking Break

2:55pm **The Confidentiality Order: An Exceptional Order**

[Alexandra Steele, Robic LLP \(Montreal\)](#)

- The implications of the “open court” principle in IP litigation
- Common vocabulary to describe types of confidentiality orders
- Deciphering the *Sierra Club* test for confidentiality orders
- Tried and tested strategies to improve your likelihood of success

3:15pm **Appealing to the Federal Court of Appeal**

[Ryan Evans, DLA Piper \(Canada\) LLP](#)

- Important appeal considerations
- When to file a Notice of Appearance versus a Cross-Appeal
- Appellant and Respondent Appeals Checklists

3:35pm **Tactical Considerations in Bringing Motions before the Federal Court**

[Stephanie Chong, Hoffer Adler LLP](#)

[Christopher Heer, Heer Law](#)

[Kavita Ramamoorthy, Deeth Williams Wall LLP](#)

[Tamara Winegust, Bereskin & Parr LLP \(Moderator\)](#)

Join our exceptional panel as they share insightful techniques and tactics for successfully bringing motions before the Federal Court.

4:20 pm Questions and Concluding Remarks

4:30 pm Program Concludes

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