

Outline of Global Fellows Classroom Program

- Introduction to fact pattern
- Modules
 - Discussion of Fundamentals of US and European Patent Litigation Systems
 - Essence of civil v common law systems
 - Overview of court hierarchy and jurisdiction
 - US system
 - District courts
 - ITC
 - Federal Circuit
 - Supreme Court
 - German system (split jurisdictions for validity and infringement)
 - Landgericht, Oberlandesgericht
 - Bundespatentgericht
 - Bundesgerichtshof
 - Court of Justice of the European Union
 - Overview of other major European jurisdictions
 - UK
 - Netherlands
 - France, Italy, Belgium, Spain
 - Single European patent court
 - Precedent and Controlling Issues of Law in the US and Germany
 - Practical considerations
 - Timing
 - Cost
 - Cost shifting
 - German “value under dispute” concept
 - Access to courts, choice of forum, choice of jurisdiction
 - Structure and specialization of profession
 - Pros and cons of each system
 - What your system looks like to outsiders
 - Evidence Preservation and Gathering
 - US discovery
 - E-discovery issues
 - Seizures/border seizures
 - Other evidence gathering procedures in Europe
 - Blocking statutes
 - Hague convention issues
 - Protective order issues
 - Privilege issues
 - Practical problems in parallel German and US patent litigation

- Available Relief: What Do Clients Want?
 - Availability and standards for interim relief
 - The German “protective letter”
 - Permanent relief
 - Standards for injunction
 - Accounting and information
 - Damages
 - Recall and removal from distribution channels
 - Publication of judgment
 - Settlement
 - Mediation
 - Mock mediation in breakouts
 - Appeals

- Claim Construction
 - Use of file history
 - Central v peripheral claiming
 - Effect of preferred embodiments
 - Direct product of production process
 - Use claims
 - Equivalent infringement
 - Contributory infringement

- Defensive Options
 - Validity
 - Prosecution history estoppel
 - Lack of standing to sue
 - License defense
 - FRAND defense
 - Experimental use exemption
 - Private prior use right
 - Statute of limitations
 - Own entitlement to patent rights
 - Inequitable conduct
 - Antisuit injunctions

- Parallel Validity Proceedings
 - Re-examinations
 - EPO oppositions
 - Nullity actions
 - Suspension of German infringement proceedings pending the outcome of the validity attack
 - Validity test in German PI proceedings

- Trials

- Particularities of Enforcement of Court Decisions
 - Provision of security for preliminary enforcement
 - Requests for protection against enforcement
 - Partial enforcement
 - Enforcement of recall/removal from distribution channel claims
 - Penalty proceedings

- Mock Trial