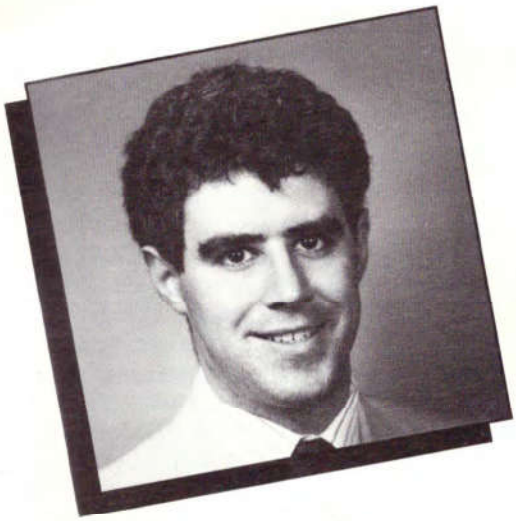
Pointers on Trying Intellectual Property Cases



Reported by Howard L. Hoffenberg

Pasadena, CA

The Intellectual Property Section of the State Bar of California in conjunction with the California Judges Association presented a forum on intellectual property law on February 15–17, 1991 in Los Angeles, California. The attendees at the forum were privileged to hear an excellent panel discussion on trying intellectual property cases. The remarks of the panelists are of benefit to all attorneys trying intellectual property cases, and are presented herein below.

The panel featured three speakers presenting the perspective of the court, plaintiff and defendant. The Honorable A. Wallace Tashima presented the courts' perspective. Judge Tashima sits on the United States District Court for the Central District of California. He is known for his contributions to the treatise *Federal Civil Procedures Before Trial* published by the Rutter Group. Judge Tashima presided over the trial in Bette Midler's right of publicity case. Before taking the bench, Judge Tashima was trial counsel in many cases including the Dallas Cowboys' Cheerleaders' trademark case.

Robert C. Weiss presented the plaintiff's perspective. Mr. Weiss is a senior partner at Lyon & Lyon, Los Angeles, California. Mr. Weiss specializes in high technology intellectual property litigation, including *Maglite v. Brinkman*.

Louis P. Petrich presented the defendant's perspective. Mr. Petrich is a senior partner in the law firm of Leopold, Petrich & Smith, Los Angeles, California. Mr. Petrich is a frequent lecturer at the Annual PLI Seminar on Litigating Copyright, Trademark and Unfair Competition Cases. He recently represented petitioners before the United States Supreme Court in *Stewart v. Abend* (rear window litigation).

Trial Preparation Conference

JUDGE TASHIMA (COURT'S PERSPECTIVE)—A trial preparation conference is held shortly before trial. It should not be confused with the Rule 9 pretrial conference. The purpose of the trial preparation conference is to make the trial run efficiently from the jury's perspective. Matters raised at the trial preparation conference are matters which historically were addressed at side bars.

Judge Tashima instructs counsel to bring with them to the trial preparation conference copies of exhibits in which there is a dispute as to foundation and relevance. He will rule on these objections at the trial preparation conference. He also wants counsel to bring with them their list of next-day witnesses. Judge Tashima views the trial preparation conference as nearly completely replacing side bars. He instructs counsel to only ask for a side bar if it is a "life and death" matter, and a mistrial will otherwise result.

WEISS (PLAINTIFF'S PERSPECTIVE)—The key to winning is to get the jury and judge to understand your case and the winning issues as early as possible. The trial preparation conference should be used to dispose of evidentiary objections which would interrupt counsel's presentation of the case. If the court does not schedule a trial preparation conference on its own, counsel should request the court to set aside a day for such a conference.

A trial preparation conference is particularly useful from the standpoint of preparing an opening statement. Evidentiary issues should be disposed of and counsel should know what is admissible. With this knowledge, counsel can avoid promising the jury evidence which is inadmissible. There is no more "damaging" argument for an opponent to make in closing argument than to point out that counsel could not deliver the evidence which he promised.

PETRICH (DEFENDANT'S PERSPECTIVE)—Counsel should try to take charge of the trial preparation conference by preparing a written agenda in advance. This agenda should cover pre-instruction to the jury, opening statements, challenges to exhibits, challenges to experts, voir dire of experts, method and timing of presenting the copyright and allegedly infringing work to the jury and closing argument.

Choosing between a Judge or Jury Trial

WEISS (PLAINTIFF'S PERSPECTIVE)—A jury is preferable over a judge to hear an intellectual property case. Intellectual property cases involve emotion. Plaintiffs typically stress the moral issue of theft of property. Defendants typically stress that the patented invention is not sufficiently novel to warrant ownership to one man and restrict competition. Intellectual property cases focus on cross-examination and credibility. Juries are particularly good at deciding between inconsistencies in testimony. Judges are often immunized to breach of the business ethics.

Counsel can expect more preferable trial scheduling with a jury trial. A judge must hold a jury trial at reasonable hours. The same is not true for bench trials. Some judges have been known to conduct bench trials from 9:00 a.m. to 9:00 p.m.

PETRICH (DEFENDANT'S PERSPECTIVE)—The defense usually prefers a bench trial. Court trials are controlled and do not become emotional. This is particularly important if the plaintiff is a celebrity or has a winning personality. Plaintiffs typically tell a jury that they thought of their copyrighted work like a child.

There is an exception to the general rule that defendants prefer bench trials. This exemption applies when the judge is predisposed on an issue. Such predisposition can be determined from published opinions, prior experience before the judge, and/or discussions with other lawyers.

A Rent-A-Judge should be considered when the time of trial is particularly important; e.g., witnesses are only available on certain dates. With a Rent-A-Judge, counsel has the additional advantage of being able to select the judge.

TASHIMA (COURT'S PERSPECTIVE)—A jury should be used when counsel has a high publicity client that makes a good impression. For example, Bette Midler who struggled to raise herself up to the top. A jury should be used when credibility is on counsel's side. To determine

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if credibility is on counsel's side, the case can be tried before a mock jury.

Voir Dire

JUDGE TASHIMA (COURT'S PERSPECTIVE)—Courts are making greater use of jury questionnaires. A jury questionnaire is particularly useful in identifying the veniremen that have advance knowledge of the case. This is especially important in high publicity cases. The jury questionnaire is also useful for identifying the veniremen who have the time available to sit on a jury. A juror who is anxious to get off the jury does not make a good juror.

There are two recent decisions regarding the public availability of jury questionnaires. These cases hold that jury questionnaires are public records. However, the veniremen's questionnaire does not become public until he is called as a prospective juror. The court and counsel should tell the veniremen that the questionnaire becomes a public record and that they have the right to request the court for permission to answer questions in confidence. The court will then hold a hearing in chambers, in camera to determine whether certain questions should be answered in confidence by that prospective juror.

Counsel should consider alternative methods of jury selection based upon the jury questionnaire. These methods require stipulation by all counsel and agreement by the court. Under such methods, jurors are prequalified based upon the questionnaire. An example of a qualification criteria is a high school diploma and seeing at least 10 movies per year. From the prequalified jurors, names can be randomly drawn or each side can select six jurors.

PETRICH (DEFENSE PERSPECTIVE)—When independent creation and scene-de-faire are an issue, defendants should look for jurors that have seen numerous movies and watch extensive amounts of television.

WEISS (PLAINTIFF'S PERSPECTIVE)—Counsel should be concerned about a juror's availability. Counsel does not want a juror that is angry about having to sit on a jury.

Counsel should try to get as much information as possible on the background and knowledge of each juror. Almost everybody has some technical know-how. Counsel should then personalize the case in accordance with the background and knowledge of the jurors. There is no better way to get avid listeners and understanding listeners than to personalize the case to the jurors' background and knowledge.

For example, Weiss tried a case involving a process to make ammonia. None of the jurors had a background in making ammonia. However, there was a beautician on the jury who mixed chemicals. Weiss had his expert investigate into the chemicals mixed by a beautician, and draw parallels. By so doing, Weiss associated himself and the expert with the jurors.

Pre-Instruction and Opening Statements

PETRICH (DEFENSE PERSPECTIVE)—Every lawyer should read an article by Judge Schwartzer, Northern District of California, on pre-instruction at 132 F.R.D. 575 (1990). In this article, Judge Schwartzer says that trying a case without pre-instructing a jury is like watching a baseball game without knowing what the rules are until the end. Most intellectual property cases are not within the average experience of jurors, and pre-instruction is particularly important in such cases.

There are two types of pre-instructions: procedural and substantive. Most courts give procedural pre-instructions on credibility, inferences and the like. Also, during trial, most courts give procedural instructions as the need arises. For example, the first time that an interrogatory answer or deposition testimony is used, the court will provide an explanation of interrogatories or depositions.

Most courts do not give substantive pre-instructions. Substantive pre-instructions are not given for three reasons. First, the lawyers are not ready with the instructions. Second, the judge is unsure of what issues will remain at the end of trial, and is reluctant to instruct the jury. Third, pre- instructing the jury requires the cooperation and stipulation of counsel for both sides.

Pre-instruction should be neutral, explain the burdens of proof and each element of the causes of action. Pre- instructing the jury has the advantage of making the opening statement more meaningful, since counsel can incorporate the pre-instructions into the opening statement.

Opening statements are not argument. Each judge draws the line differently regarding what he will permit in an opening statement. Counsel should ask the judge, in advance, what the rules are in his courtroom. A sustained objection on opening statement undermines counsel's credibility in the eyes of a jury. The reverse is also true. An overruled objection in an opening statement demeans an objecting attorney.

Some cases turn on legal concepts that are unfamiliar to the average juror. These cases necessitate pre-instruction to the jury or some argument in opening statement. For example, in a defamation case, a jury must be instructed on constitutional malice at the onset of the case.

Counsel should learn from the court the amount of time allotted for opening statements. Counsel should not try to cram every aspect of the case into the opening statement. Even though counsel may have a juror's eye contact, the juror's mind is still on where he parked his car and whether it will be there at the end of the day. The best opening statements are short.

Every opening statement should have a theme, and the objective of the opening statement is to present that theme. For example, a plaintiff's theme in a copyright case is that he was just about to be somebody when defendant stole his work away from him. A defendant's theme in a copyright case is that anybody could have come up with the work.

While counsel cannot overtly argue in an opening statement, counsel can subtly argue by the way he presents facts. Tell the story to the jury in a manner that puts the case in the best light for your client. Also, counsel should volunteer weaknesses. If a chronology of events is important, counsel should have a chart of the chronology which has been preapproved by the court.

It is very important for defense counsel to explain to the jury that defendant cannot jump up in the middle Of plaintiff's case to rehabilitate itself. Plaintiff has an absolute legal right to attack the acts and credibility of defendant, and defendant must remain silent until plaintiff finishes its case. Giving such an explanation to the jury in opening statement is the only way to neutralize the disadvantage of plaintiffs going first.

First impressions of substantial similarity are lasting impressions. Defendants should wage a tough fight to keep plaintiff from presenting to the jury in opening statement the copyrighted work and allegedly infringing work. Defense counsel should work out with plaintiff's counsel and the court how and when the works will be presented to the jury.

WEISS (PLAINTIFF'S PERSPECTIVE)—Counsel should ask for procedural instructions during the course of trial as the need arises. For example, the first time that deposition testimony or interrogatory answers are introduced, counsel should ask the court to provide an explanation of interrogatories and depositions.

It is absolutely essential that counsel know the rules of a particular judge. Counsel should also learn how strictly those rules are enforced. If the court is unwilling to provide an explanation of its rules, then

counsel should ask the clerk. For example, counsel needs to know to what extent the court will permit counsel to wander from the podium during opening statement.

One mistake that is repeatedly made in opening statement is to tell the jury that an opening statement is not evidence. This is an invitation to the jury to tune out. Opening statement is counsel's best opportunity to communicate with the jurors. Jurors are the most attentive in opening statement. Further, at no other time during the trial are jurors as interested in what the lawyer has to say.

Counsel should put jurors at ease regarding understanding the technology. Counsel should tell jurors that there will be experts that will take the complex subject matter and put it into understandable terms.

TASHIMA (COURT'S PERSPECTIVE)—Judge Schwartzer's article on reforming the jury trial is superb. It can be found at 132 F.R.D 575.

Judge Tashima does not favor pre-instruction. However, during jury voir dire, he will explain plaintiff's claim and the elements which plaintiff has to prove. He will tell the jury that defendant denies plaintiff's claims and sum up defendant's affirmative defenses.

In an opening statement in an intellectual property case or complex case, Judge Tashima gives lawyers leeway to go beyond a litany of evidence. He allows the lawyers to explain their theory of the case and any alternate theory of the case. Granting lawyers leeway in opening statement is a better alternative to pre-instruction.

Judge Tashima will tell a jury that depositions have been taken and explain the nature of a deposition. He will also do the same for stipulations.

Exhibits

WEISS (PLAINTIFFS PERSPECTIVE)—A jury remembers what it sees. Overhead projectors are wonderful. Transparencies for use in overhead projectors can be prepared overnight on a photocopy machine. Cross-examination on a document can be very effectively conducted with the jurors seeing the words of the document on a screen. Judges rarely object to the use of overhead projectors. Blow-ups are also good, however, they take longer to prepare. Counsel should make use of models and charts.

Counsel should consider providing the jury with an exhibit notebook. An exhibit notebook consists of key documents and not all documents. A cross-examiner does not want to give away the documents on which he is going to cross-examine a witness. The exhibit notebook should have a system for supplementing it with exhibits used on cross-examination.

PETRICH (DEFENDANT'S PERSPECTIVE)—Counsel should be familiar with the physical size and layout of the courtroom. Counsel should be concerned with (1) having a sound system to play music which can be heard by the jury; (2) lines of sight; (3) providing t.v. monitors; (4) where to position t.v. monitors; (5) and location of electrical outlets. Depending upon the layout of the courtroom, blow-ups may be more advantageous than overhead projectors. Counsel should test all of his equipment in advance of trial.

TASHIMA (COURT'S PERSPECTIVE)—Judge Tashima favors the use of jury exhibit notebooks. Each side should agree on 5 to 10 documents to be placed in the notebook which will be repeatedly referred to during trial. Jurors like to annotate the documents as witnesses testify.

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"Hi-tech" demonstrative exhibits are being used more and more; for example, computer simulations. Counsel must give advance notice to the opposing side of these hi-tech demonstrative exhibits so that the opposing side can prepare a rebuttal on cross-examination. Local Rule 9.4.12 requires the exchange of graphic or illustrative material 20 days in advance of trial. Judge Tashima expects additional rules to be enacted pertaining to notifying an opposing side of hi-tech demonstrative exhibits.

Experts—Illustrative Material

PETRICH (DEFENDANT'S PERSPECTIVE)—There are three reasons for introducing expert testimony. First, to make an adequate fact record. Second, to persuade the trier of fact. Third, to respond to the other side. If the other side is using experts, counsel has no choice but to use experts. Otherwise, a jury will conclude that there is no expert out there to take a contrary position.

Expert testimony is useful in (1) making a comparison of the art, (2) establishing custom in the industry, and (3) damages. Experts can be located by consulting (1) Nexis-Lexis, (2) Other lawyers, (3) Institutions and (4) Guilds.

Experts should be very thoroughly prepared. Any time counsel uses an expert, he exposes himself to great risk. Experts often times have their own agenda. Plaintiff case is surely damaged when counsel's own expert makes an adverse admission. This happens when counsel has not thoroughly prepared his expert.

At trial, the court will often issue an order excluding witnesses. Counsel should urge the court to except experts from this exclusion order. Experts are not percipient witnesses and there is no danger of their altering the facts on which they will testify. Experts need to be present in the trial to see and hear the evidence in that their opinion is based on such evidence. Experts are consultants to trial counsel, and trial counsel needs their presence to assist him in presenting a case.

In putting on an expert, impressive qualifications usually do not persuade a jury. Juries decide cases based upon their experience. An expert should relate to the experience of jurors, and think the way jurors believe the world is structured. The factual predicate for the expert's opinion should be in evidence before the expert expresses his opinion. This factual predicate can come in (1) through the expert, (2) from percipient witnesses, or (3) by assuming facts with a promise from counsel that he will introduce evidence to establish those facts.

An expert's testimony should always be coupled with demonstrative and real evidence. This evidence refreshes the expert's recollection, and focuses his testimony. It keeps the jury alive, and jurors remember what they see. Most important, real evidence goes back into the jury room, and counsel gets a second chance to persuade the jury. when using overheads, it is important to have a hard copy available to go back to the jury room.

In opposing an expert, counsel should begin with an analysis of the appropriateness of the subject matter for expert testimony. Expert testimony is only appropriate on subject matters that are beyond the reasonable juror's knowledge. Next, counsel should challenge the qualifications of that expert. Finally, he should challenge the exhibits being used by the expert. This voir

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dire of the expert should be conducted outside the presence of the jury.

Defense counsel in a copyright action should check the version of the work being expounded upon by the experts. In copyright cases, there are often multiple versions of the work, and usually only one is registered. Defense counsel should ensure that the opposing side's expert is referring to the registered work. with respect to the defendant's work, there is usually only one work, and that work is the published work.

Defense counsel in a copyright case should be wary of abstractions. Abstractions trivialize a work so that all works seem the same. Defense counsel should urge the court only to allow abstractions which are a fair representation of the work. In music cases, a plaintiff may replay the copyrighted and allegedly infringing work on a synthesizer. A jury will hear similarity. However, this similarity does not arise out of similarity in the musical compositions. Rather, the jury is hearing similarity in the nature of the sounds put out by the synthesizer.

After an opposing side presents his expert, counsel should be ready with a directed verdict motion and later with a motion notwithstanding the verdict. Counsel should introduce his own experts challenging the methodology and legal basis of an opposing side's experts. Counsel should ask the court for additional experts to rebut unexpected portions of an opposing side's expert.

WEISS (PLAINTIFF'S PERSPECTIVE)—First-time experts are the best experts. An old expert is saddled with prior testimony on which he can be impeached. He is also distracted by other cases. Finally, a new expert will be more enthusiastic and attentive.

In cross-examination, avoid the impulse to ask a question which counsel does not know the answer to in advance. Do not get caught up in technology. The objective of cross-examination should be to destroy the expert's credibility.

TASHIMA (COURT'S PERSPECTIVE)—Intellectual property lawyers Overtry their cases. Do not overuse experts.

If the other side calls an expert, then counsel must call an expert. Jurors expect and demand from an opposing side an opposing expert. Likewise, if an opposing side put counsel's own expert through extensive voir dire, then counsel must put the opposing side's expert through an extensive voir dire.

First-time experts are desirable. They cannot be impeached by prior opinion. The services which provide assistance to lawyers in devising profiles for ideal jurors also provide assistance in evaluating the credibility of an expert.

Jury Instructions

WEISS (PLAINTIFF'S PERSPECTIVE)—Counsel will get farther with a fair and integrated set of instructions. when a judge is confronted with two sets of biased instructions, he is not going to write a set of unbiased instructions. Rather, he will divide up the biased instructions giving each side some of their biased instructions. This results in a disjointed set of jury instructions. If counsel submits fair instructions, and the opposing side submits biased instructions, the court may accept all of counsel's fair instructions to the exclusion of the opposing side's instructions.

In the situation in which a case is staffed by a senior attorney and associate attorneys, the senior attorney should prepare the jury instructions. Preparing jury instructions leads to a good understanding of a case.

Access is a critical issue in a copyright case. Counsel can write instructions pointing out what is and what is not access.

PETRICH (DEFENDANT'S PERSPECTIVE)—Counsel should prepare neutral jury instructions. The court may grant all of counsel's neutral instructions and rejects an opposing side's biased instructions.

Jury instructions should be short in number, even if this adds some length to the instruction. Courts are favorably disposed towards a lower number of jury instructions. Petrich has submitted five instructions where an opposing side submitted 35 instructions.

Counsel should be ready to object to an opposing side's instructions.

Defendants should use special verdicts and interrogatories. Special verdicts and interrogatories strengthen the jury's thinking. Defense counsel should have a plan for inconsistent interrogatories. Defense counsel should ask the court for more deliberation, and then move for a new trial.

TASHIMA (COURT'S PERSPECTIVE)—There is no killer instruction which will result in the plaintiff or defendant winning. Such an instruction is unfair, worthless and would be retracted by the court. Judges favor giving neutral instructions.

In writing instructions, use nontechnical language. Jurors read and rely very carefully on instructions. The more direct and nontechnical the instruction, the better the instruction.

Closing Arguments

PETRICH (DEFENDANT'S PERSPECTIVE)—Typically, plaintiffs deliver their opening statement first and their closing argument last. This advantage is given to plaintiffs because they have the burden of proof. In many intellectual property cases, plaintiffs prima facie case is conceded, and defendants actually have the burden of proof with their affirmative defenses. For example, in a copyright action, copying may be conceded, and the true issue is fair use. Under such circumstances, defendant should request that he open first and close last.

As with opening statements, a lawyer must learn the judge's courtroom rules. For example, to what extent may counsel wander from the podium. Counsel also needs to know in advance the amount of time he has for closing argument. Finally, counsel should get as many advance rulings as possible on what may be included in closing argument.

The closing argument should be about the same length as the opening statement. It should show the jury how all the evidence fits together. It should educate the jury as to how they should decide the case.

Technical arguments are not compelling. In a choice between "logic" and "emotion," an argument directed towards emotion is more compelling. Jurors are good at determining witness credibility. Jurors want to decide who is telling the truth and who is lying. Jurors would like to stop at this point, and not go to decide the case. Emotional arguments based upon juror's experience are the most compelling.

Experts should be attacked as not conforming to common sense.

Plaintiffs have the advantage of being a "David" battling "Goliath." Defense counsel should respond by humanizing defendant. This is done by pointing out one or two persons in the corporation which made the responsible decision. Defense counsel should give these one or two persons an emotional stake in the outcome of the case.

Defense counsel should sell jurors on defendant's ability to be innovative and that defendant has no need to steal. Many intellectual property cases are battles of credibility. The best way to win the credibility argument is for defendant to convince a jury that it has all the innovative powers it needs, and does not have to resort to thievery. During the course of the trial, plaintiff will inevitably have repeatedly referred to defendants as thieves.

Defense counsel should explain in closing that plaintiffs are protected by law to make the most outrageous comments about defendant during their case in chief.

Defendant cannot jump up in the middle of plaintiff's case to rebut those outrageous comments. Rather, defendant must sit quietly until it is his turn to present his case.

Counsel should use demonstrative evidence in a closing argument. Counsel should go over any interrogatories, special verdict form and instructions. Counsel should show the jury how to decide the case in favor of his client.

WEISS (PLAINTIFF'S PERSPECTIVE) - Closing argument always takes longer than counsel expects. Counsel should prepare a closing argument 5/6 as long as the time which the court has granted counsel. When counsel delivers that closing argument, it will take the full length of time which the court has allotted counsel.

Counsel should talk to the jury through the instructions. Counsel should match evidence up to the instructions. The same should be done with any special verdicts or interrogatories. Counsel should explain to the jurors what they are to do to decide the case in favor of his client.

TASHIMA (COURT'S PERSPECTIVE) - No comments.

Recurring Problems

TASHIMA (COURT'S PERSPECTIVE)—Getting jurors to understand technological facts is a recurring problem. In one case, Judge Stotler, Central District of California, had a neutral expert give a half day tutorial on the technology and vocabulary of the case.

WEISS (PLAINTIFF'S PERSPECTIVE)—The California Trade Secret Act requires the court to preserve the confidentiality of trade secrets. This statute conflicts with the doctrine that trials should be open. In a trade secret case, counsel should request an order that witnesses be sequestered. This will minimize an opposing party learning the other side's trade secrets. Counsel should request the court to admonish the jury that they are to preserve the confidentiality of the secrets that they hear.

Such measures may be futile. Weiss encountered a judge which had a strict rule that a client was to be present at counsel table at all times during the trial. In this case here, each side learned the other side's trade secrets.

Conclusions and Comments

An audio tape of the entire forum can be obtained from Versatape Company, P.O. Box 40940, Pasadena, CA 91114, Tel. (818) 791-8907. In addition to the panel discussion on trying intellectual property cases, the following subject matters were discussed at the forum:

(1) Preemption and Removal by The Honorable Harry Hupp, Judge, U.S.D.C. for the Central District of California and Lowell Anderson of Knobbe, Martins, Olson & Bear, Newport Beach, California;
(2) Complex Case Management by The Honorable Harry McBkue, Magistrate, U.S.D.C. for the Southern District of California and David M. Valabanian of McCutchen, Doyle, Brown & Enersen, San Francisco, California;
(3) Provisional Remedies by Peter I. Ostroff of Sidley & Austin, Los Angeles, California and Neal Smith of Limbach, Limbach & Sutton of San Francisco, California;
(4) Insurance and Intellectual Property by William J. Robinson of Graham & James of Los Angeles, California;
(5) Trademarks, Counterfeiting, Dilution & § 43(a) of the Lanham Act Claims by Jeffrey G. Sheldon of Sheldon & Mak of Pasadena, California and The Honorable William McDonald, Judge, Superior Court for the County of Orange;
(6) Unfair Competition, False Advertising, Trade Secrets, Interference and Trade Liable Claims by Amy D. Hogue of Pillsbury, Madison & Sutro, Lillick & McHose, Los Angeles, California and Michael Carpenter of Poms, Smith, Lande & Rose of Los Angeles, California;
(7) Rights of Publicity, Personality and Moral Rights by Professor J. Thomas McCarthy of Limbach, Limbach & Sutton, San Francisco, California;
(8) Contract, Title (Including Marital Dissolution) and Licensing Issues as they Relate to Patents, Copyrights and Trademarks by Irv Rappaport, Esq., independent consultant to Intel and Professor Lionel S. Sobel of Loyola Law School, Los Angeles, California;
(9) RICO and Anti-Trust Claims in Intellectual Property Cases by Maxwell M. Blecher of Blecher & Collins, Los Angeles, California and Morgan Chu of Irell & Manella of Los Angeles, California;
(10) Remedies and Intellectual Property Cases by Paul R. Wylie of the Law Office of Paul R. Wylie, Pacific Palisades, California and Vincent E. O'Bryan of Putnam, Hayes & Bartlett of San Francisco, California. The Program Chair was Surjit P. Soni of Sheldon & Mak, Pasadena, California. ■