

Patent Issues, Litigation and Policy in Post Pandemic

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Intros

Panelists:

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Moderator:

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Overview

- Procedural aspects of litigation
 - A look back at 2020
 - A peek into 2021 and beyond
- Substantive aspects
 - Case Law Highlights
- Q&A

A Reminder of Litigation in 2020 - *What was it like (then and now)?*

- Pre-Pandemic posture:
 - Nothing remote (preference for in-person)
 - Forced remote procedure
- Geographic boundaries disappeared
 - Impact on scheduling and availabilities of key witnesses
 - In-person versus remote? - Preferences?
- The “COVID Card”
- Examples / Recollections of Pandemic Highlights:
 - Virtual Filter “Fun” (not so fun):
 - [Cat lawyer](#)
 - Also: Losing access, dropped calls, filter frenzies (upside down attendees, awkward moments,...)
 - Court / professional meeting decorum
- Are we out of the pandemic era?

Remote working - *Is it working?*

- Experiences on:
 - Depositions
 - Mediations
 - Discovery
 - Trials
 - Hearings
 - Expert witnesses
 - Focus groups
- What are the benefits / risks of remote working?
- Scheduling conundrums?
 - Calendaring / travel
 - Court schedules / conflicts
- ABA Ethics opinion - a sign that remote is here to stay?

Case Law - What will impact patent law Post-Pandemic?

- American Axle
 - Section 101 extended to mechanical arts
- Super Interconnect Techs. LLC v. Google LLC
 - Venue case
 - (Google servers are not enough for venue)
- United States v. Arthrex Inc.
 - Administrative law, but impacts patent law
 - What is the future of the PTAB?
 - What will happen to cases currently in a “holding pattern” pending *Arthrex* decision?

Takeaways - Pandemic

- **Procedurally:** *What Will Litigation Look Like Post-Pandemic?*
 - Court- / Judge- / Jurisdiction-dependent
 - Generally expect a hybrid approach of in-person
 - Application of ABA Ethics Guidance
- **Substantively:** *What Will Case Law Look Like Post-Pandemic?*
 - **Venue**
 - Super Interconnect Techs. LLC v. Google LLC
 - **More to come on Section 101**
 - *American Axle*
 - **Guidance on the Constitutionality of Patent Board's Structure - *Arthrex***

Thank you! Questions?

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