



**Tuesday, October 26**  
**11:00am-12:30pm**

## **609 - Evolution of the IP Marketplace**

**Keith Agisim**

*Associate General Counsel, Global Intellectual Property*  
Bank of America

**Stephen Koch**

*Assistant Chief Attorney*  
ExxonMobil Upstream Research Company

**BJ Watrous**

*VP and Deputy General Counsel, Intellectual Property and IP Licensing*  
Hewlett-Packard

## Faculty Biographies

### **Keith Agisim**

Keith Agisim is associate general counsel for global technology & operations and global intellectual property for Bank of America. Ms. Agisim and his team are responsible for creating and implementing the bank's intellectual property strategies and policies, including protecting the bank's intellectual property, defending the bank against claims of others, and monetizing the bank's intellectual assets.

Prior to joining Bank of America, Mr. Agisim was IP counsel at an affiliate of the Principal Financial Group, where he structured novel intellectual-property-based financings. The innovative structuring of these transactions earned a "Deal of the Year" Award from Securitization News and a "Deal of Distinction" Award from the Licensing Executives Society. Previously, he practiced law at Fish & Neave in New York.

He currently serves on the board of advisors of Belmont Abbey College Entrepreneurship Program.

Mr. Agisim graduated from the University of Michigan with a BS and received a JD from Columbia University School of Law.

### **Stephen Koch**

Stephen P. Koch is the assistant chief attorney at ExxonMobil Upstream Research Company. His technology-oriented practice focuses on research and development transactions, patent portfolio management, and licensing.

He was previously the assistant chief attorney for technology licensing at ExxonMobil Chemical Company, where his internationally-oriented practice focused on the licensing of patent and trade secret intellectual property portfolios in the chemical process industry and the leasing of catalytic products used in those processes. He has also been chief patent counsel at Univation Technologies, a leading licensor of intellectual property in the polyethylene process industry, and has held positions at the ExxonMobil Exploration Company, where he led teams focused on oil and gas leasing and joint venture development in West Africa.

He is the immediate past president of the Houston Intellectual Property Law Association. He is a registered patent attorney at the USPTO.

Mr. Koch received his law degree from the University of Houston. He has engineering degrees from Purdue University, the Massachusetts Institute of Technology, and the Woods Hole Oceanographic Institute.

**BJ Watrous**

BJ Watrous is vice president and deputy general counsel for intellectual property and IP licensing for Hewlett-Packard in Palo Alto, CA. Mr. Watrous is responsible for helping to shape and implement HP's worldwide intellectual property strategy. This includes protecting HP's IP by preparing and prosecuting patent applications; counseling HP's businesses and HP Labs (the company's central research facility) on IP matters; and, optimizing the value HP realizes from its IP portfolio through licensing and other means.

Prior to this role, Mr. Watrous led HP's IP licensing team and was responsible for leveraging HP's IP, through patent licensing, standards licensing, technology transfer, patent sales and patent acquisitions. Previously, Mr. Watrous served as chief of staff for the IP group and co-lead its transformation into the current, unified team of four major practice areas: patent development, IP transactions, trademarks, and IP licensing. Before joining HP, Mr. Watrous was at DLA Piper US LLP (previously Gray Cary Ware & Freidenrich LLP) where he specialized in intellectual property litigation.

Mr. Watrous serves as counsel to HP's chief strategy and technology officer and to the technology committee of the HP board of directors. He serves on the board of directors of the Intellectual Property Owners Association and Allied Security Trust. He also is a member of the advisory boards of IP Counsel Cafe and the Rational Patent Exchange.

Mr. Watrous obtained his JD from the University of California, Los Angeles and his BA from Pomona College.



## Evolution of the IP Marketplace (Session #609)

2010 ACC Annual Meeting

Keith Agisim  
Chief IP Counsel, Bank of America

Stephen Koch  
Assistant Chief Attorney - Upstream Research, Exxon Mobil Corp

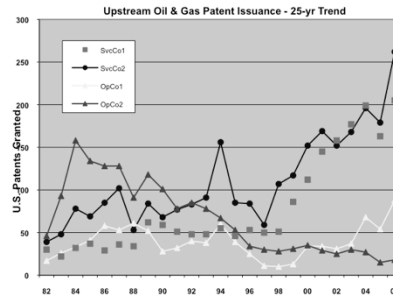
Douglas Luftman  
VP & Chief Patent Counsel, CBS Interactive, Inc.  
(Moderator)

BJ Watrous  
VP & Deputy General Counsel, IP & IP Licensing, Hewlett-Packard Co.

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## Patent Issuance Trends



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'09 IPO Rank	'08 IPO Rank	Company/Organization	Patents
1	1	International Business Machines Corp.	4,887
2	2	Samsung Electronics Co., Ltd.	3,592
3	4	Microsoft Corp.	2,929
4	3	Canon K.K.	2,241
5	11	Hitachi, Ltd.	2,146
6	6	Panasonic Corp.	1,759
7	7	Toshiba Corp.	1,669
8	9	Sony Corp.	1,656
9	8	Fujitsu Ltd.	1,615
10	5	Intel Corp.	1,534
11	14	General Electric Co.	1,379
12	15	Seiko Epson Corp.	1,328
13	12	Siemens AG	1,311
14	10	Hewlett-Packard Co.	1,269
15	20	LG Electronics Inc.	1,035

Source: Intellectual Property Owners Association

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## Oil & Gas Industry U. S. Patent Grants 1984 vs. 2006

### 1984

- 9. Mobil Oil Corp - 373
- 23. Exxon Res. & Eng. – 256
- 32. Texaco – 196
- 38. Shell - 181
- 52. Chevron - 140
- 77. Halliburton - 99

### 2006

- 74. Halliburton – 279
- 86. Schlumberger – 246
- 92. ExxonMobil – 229
- 107. Shell – 185
- 253. ConocoPhillips - 68

Source: Intellectual Property Owners Association

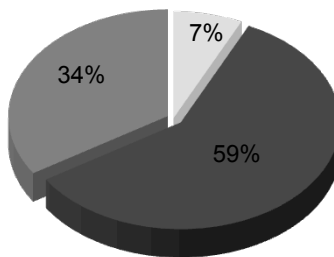
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## NPE Evolution

- Types
  - Failed Companies
  - Legal Entities
  - Individuals
  - Corporate / Institutional Investor Funded
  - "Service Companies"
  
- Factors
  - Market Forces
  - Potential for Significant Litigation Damages
  - Liquid Patent Market
  - Litigation Dynamics
  
- Results
  - Increased Participation
  - Increased Third-Party Funding
  - Alternative Funding and Target Models

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## NPEs Fueled by Acquisitions



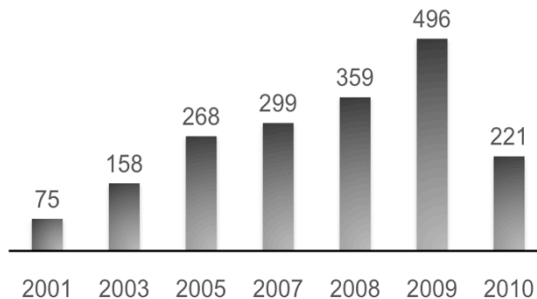
■ No Data   ■ Acquisitions   ■ Inventor

Source: RPX Research; PACER and Lexis Nexis Courtlink, 2009 NPE patent litigation, 1/1/2009 – 12/31/2009.

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### US Litigation Involving NPEs



PatentFreedom © 2008 and RPX Research. Data as of 6.30.10

**NPE activity has increased four-fold since 2001**

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#### NPEs with Largest Patent Holdings

Entity	Patent Families	Litigations
Intellectual Ventures	10k-15k (Est)	-
Round Rock Research LLC	3,362	-
Interdigital Inc	1,858	39
Wisconsin Alumni Research Foundation (WARF)	1,718	28
IPG Healthcare 501 Limited	834	-
Tessera Technologies Inc	776	21
Rambus	774	12
Mosaic Technologies Inc	666	17
Acacia Technologies	521	360
Jerome H Lemelson	513	28
Commonwealth Scientific and Industrial Research Organisation (CSIRO)	510	19
Sonoma Research LLC	323	18
Patent Licensing GmbH	271	82
Altitude Capital Partners	263	12
Wi-Lan	244	21
Innovative Sonic Ltd	234	-
Allaomse	224	35
Patent Category Corp	207	46
Trontech Licensing Inc	191	34
Chenhat Omni LLC	187	5
St. Clair Intellectual Property Consultants Inc	177	17
Innovation Management Sciences LLC	152	1
RambRAND IP	145	29
MobileMedia Ideas LLC	140	3
MicroUnity Systems Engineering Inc	130	5

Source: PatentFreedom © 2010 Data Captured as of April 1, 2010

#### Ranking of Operating Companies by Number of NPE Lawsuits

No.	Company Name	2004	2005	2006	2007	2008	2009	Total
1	Apple	4	3	3	12	13	21	56
2	Sony	4	7	5	10	12	17	55
3	Dell	4	3	8	10	8	17	50
4	Microsoft	3	5	6	12	13	10	49
5	HP	6	3	5	10	11	13	48
5	Samsung	5	4	8	14	11	6	48
7	Motorola	1	6	4	12	14	9	46
8	AT&T	2	2	6	17	10	7	44
9	Nokia	2	7	3	10	9	11	42
10	Panasonic	6	8	4	8	5	11	40
11	LG	-	7	3	12	9	8	39
12	Verizon	3	3	3	14	7	7	37
13	Toshiba	5	5	4	9	5	8	36
14	Sprint Nextel	2	3	3	11	8	7	34
15	Google	3	1	3	10	7	9	33
16	Acer	2	3	4	7	8	7	31
16	Time Warner	2	6	6	9	5	3	31
18	Deutsche Telekom	-	5	2	12	5	5	29
19	Hyundai	3	6	3	5	5	6	28
19	Palm	1	3	3	5	10	6	28
21	Cisco	-	3	-	13	6	5	27
22	Fujitsu	3	1	3	3	7	8	25
22	IBM	4	1	3	6	2	9	25
24	Intel	1	9	2	1	7	4	24
24	RIM	-	3	2	3	11	5	24
24	HTC	-	-	3	5	10	6	24

Source: PatentFreedom © 2009 Data captured as of January 1, 2010

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## Secondary Market Forces

- Expanding Source of Patents
- Maturing Markets
- Multiplying Intermediaries, Specialists, Brokers and Others
- Imposing Restrictions on Use of Patents After Sale

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## Collective Action Response

- Joint Defense Groups
- Third-Party Services
  - Rational Patent Exchange (RPX)
  - Allied Security Trust (AST)
  - Open Invention Network (OIN)
  - Patent Freedom
  - Project Integrity
  - Captive Insurance Pools

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## Where Do We Go From Here?

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### **Extras from ACC**

We are providing you with an index of all our InfoPAKs, Leading Practices Profiles, QuickCounsels and Top Tens, by substantive areas. We have also indexed for you those resources that are applicable to Canada and Europe.

Click on the link to index above or visit <http://www.acc.com/annualmeetingextras>.

The resources listed are just the tip of the iceberg! We have many more, including ACC Docket articles, sample forms and policies, and webcasts at <http://www.acc.com/LegalResources>.