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# Introduction: The Law, Technology & the Arts Symposium: The Past, Present and Future of the Federal Circuit

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# INTRODUCTION

Thank you Dean Korngold. And thanks to all of you for coming today. It is wonderful to see such a nice turn out.

The United States Court of Appeals for the Federal Circuit, as many of you know, was created by Congress in 1982. The Court was created primarily in response to a spree of forum shopping in patent litigation, a lack of uniformity in our patent laws, and a high patent invalidity rate.

The creation of the Court was a major event in patent law. In fact, Professor William Landes and Judge Richard Posner, in their new book on the economics of intellectual property right, write that the creation of the Federal Circuit “[i]s perhaps the single most significant institutional innovation in the field of intellectual property in the last quarter century.”<sup>1</sup>

Indeed the Federal Circuit has had a significant affect on patent law and innovation. It is the purpose of today’s symposium to explore what that effect was, is, and will likely be. To do so, we are pleased to have a rich array of talent from the bench, the bar and the academy.

There are four panels offering different perspectives on the Federal Circuit. Each panel has a keynote speaker and two commentators. We are also pleased to have Judge Michel here for a luncheon keynote address.

Each panel keynoter, with the exception of the first panel, which I will introduce in just a moment, will speak for about 25 minutes to be followed by 15 minutes from each commentator, and then we will open it up for questions for about 20 minutes or so.

Let me introduce the first panel, which will provide a federal district court perspective of the Federal Circuit. We have three prominent district court judges here with us today that are quite familiar with patent law. They represent the Northern District of California, the District Court of Massachusetts and the Northern District of Ohio.

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1 WILLIAM M. LANDES & RICHARD A. POSNER, *THE ECONOMIC STRUCTURE OF INTELLECTUAL PROPERTY LAW* 7 (2003).

To my far left is the Honorable Ronald Whyte. Judge Whyte has played a very important role in drafting the model patent jury instructions for the Northern District of California. He was appointed by the first President Bush in 1992. In the Almanac of the Federal Judiciary lawyers say he is "very bright and he has done a very good job with IP litigation. He is in charge, and is very active. Lawyers have to be prepared when they appear before him." We are very pleased to have him with us here today.

To Judge Whyte's immediate right is the Honorable Patti Saris from the District Court of Massachusetts. Judge Saris was appointed by President Clinton in 1993. She has authored such notable opinions in the patent law field as *State Street Bank* and *Festo*. She really got the ball rolling on all of those. Lawyers say that Judge Saris is "extremely intelligent. She is a sweet person, but don't let her sweet disposition lead you to believe that she is soft." Keep that in mind today.

Our keynoter is the Honorable Kathleen O'Malley from the Northern District of Ohio. Judge O'Malley was appointed by President Clinton in 1994. We are very privileged to have Judge O'Malley as a distinguished jurist in residence at the law school, where she teaches patent litigation.

Lawyers say of Judge O'Malley that she is "an extremely bright and gifted judge. She has one of the most advanced electronic courtrooms in the country. You will need to know how to use all the gizmos available, but her staff is always there to help."

Please welcome Judge O'Malley.

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