

## Phoenix Issue I

**Issue 1:** AI: How can AI affect litigation and patent law? How can AI be used in litigation and in court? Is there a role for generative AI in district court resolution of patent cases, including in particular claim construction? Will AI be used to generate volumes of prior art, and does such prior art need to be thought of differently from human-generated prior art?

## Phoenix Issue II

**Issue 2:** Major current issues in Life Sciences, including Orange Book Listings, Hatch-Waxman litigation, Research Use and Pharma Prices: What is the proper role of the executive branch in using IP to engineer the political goal of reduced pharma prices? Should FTC be challenging Orange Book listings under the guise of antitrust? Is the current research use exemption too narrow?

## Phoenix Issue III

**Issue 3:** Litigation funding and insurance: What are views concerning the litigation funding transparency act? What are the pros/cons of litigation funding? What is needed to foster a more fact-based dialog regarding litigation funding?

## Phoenix Issue IV

**Issue 4:** PTAB in the Next Four Years: How will the back-to-work order and hiring freeze affect the PTAB? What additional changes should be made to Inter Partes Review (IPR) and Post-Grant Review (PGR), whether through congressional legislation or agency regulation? Should Fintiv discretionary denial be abolished, restored to Iancu era status, or something in between? What are the merits and demerits of the PREVAIL Act?

## Phoenix Issue V

**Issue 5:** Impact of Chevron's demise on IP: Is the change impacting issues raised before the PTO, ITC, FTC, FDA or other agencies?

## Phoenix Issue VI

**Issue 6:** Damages: Federal Circuit en banc rehearing in *EcoFactor, Inc. v. Google LLC*, No. 2023-1101; what are the proper standards for the admissibility of expert testimony regarding patent damages? What are the proper uses for licenses in a patent damages analysis?

### Phoenix Issue VII

**Issue 7:** Trade Secrets: What is the appropriate role of trade secrets in a company's IP portfolio, e.g. incremental improvements or where patentability is uncertain? Has there been an increase in use and why? Should secret processes qualify as prior art?

### Phoenix Issue VIII

**Issue 8:** Major IP policy issues facing the new administration: What can we expect and why? Does America need policies to promote economic and technological growth and how can we get there?

### Phoenix Issue IX

**Issue 9:** Patent Prosecution and PTO Rulemaking: What changes would make sense to enact? Should PTO rulemaking seek to address obvious type double patenting? Is there an uptick in prosecution latches in a post-GATT world? Is it being measured correctly?

### Phoenix Issue X

**Issue 10:** Standard Essential Patents: Update from the EU, including regarding the proposal to use EUIPO to determine essentiality and reasonable royalties, and recent court decisions; litigating SEPs at the ITC and in district courts – is there a different standard for injunctive relief? Distinctions between SEP licensing/litigation and patent pool licensing/litigation.

### Phoenix Issue XI

**Issue 11:** International litigation now that the UPC is up and running: What have been the success stories and drawbacks? Who is using it, and who is not? How many decisions have come out so far, and what is the win/lose data for plaintiffs

and defendants? Are the criteria for assessing patent validity, preliminary injunctions, access to documents, and confidentiality issues working?

## Phoenix Issue XII

**Issue 12:** Harmonization efforts: key issues in play; positions of the players; ways forward.