

November 2016

INVITATION FOR SPONSORSHIP OF THE SEDONA CONFERENCE WORKING GROUP SERIES COMMENCING JULY 1, 2017

I am pleased to invite your firm or company to join our community of sponsors who make the work of The Sedona Conference possible by becoming an Annual Sponsor of The Sedona Conference Working Group Series for our fiscal year beginning July 1, 2017. The Sedona Conference is committed to moving the law forward in a reasoned and just way by providing forums where leading jurists, lawyers, experts, academics, and others come together in conferences and mini-think tanks called Working Groups and engage in true dialogue to find balanced solutions to cutting-edge issues in the areas of antitrust law, complex litigation, and intellectual property rights. The specific benefits and costs of sponsorship are set forth in this letter beginning on page 5.

Our most important contributions to the advancement of the law result from the efforts of hundreds of volunteer thought-leaders who participate in our Working Group content creation efforts. We currently have six active Working Groups: Electronic Document Retention and Production (WG1); International Electronic Information Management, Discovery and Disclosure (WG6); eDiscovery Issues in Canada (WG7 or "Sedona Canada"); Patent Damages and Remedies (WG9); Patent Litigation Best Practices (WG10), and Data Security and Privacy Liability (WG11).

Our Working Group commentaries are available to lawyers, judges, and policy makers throughout the world free of charge, and many courthouses and government agencies host our commentaries on their secure intranets. Our Working Group output has been a powerful force moving the law forward in a reasoned and just way. The following is an update of the activities of the Working Groups during the last twelve months:

WG1 published its final, post-public comment version of its *Commentary on Protection of Privileged ESI* in December 2015. The final, post-public comment version of the *Commentary on Rule 34 and Rule 45 "Possession, Custody, or Control"* was published in August 2016. Public comment versions of the *TAR Case Law Primer* and the *Commentary on Defense of Process: Principles and Guidelines for Developing and Implementing a Sound E-Discovery Process* were published in August and September 2016, respectively. The public comment versions of the *Commentary on Proportionality* (3rd ed.) and *The Sedona Principles* (3rd ed.) are due to be released in late 2016, along with a new commentary on BYOD. A case law update to the *Commentary on Legal Holds* is also expected to be published in late 2016. Finally, WG1 is actively working on updates to the *Social Media Primer* and the *Commentary on Information Governance*. In addition to the many papers in progress, WG1 is preparing to launch its eDiscovery Federal Rules Amendments educational toolkit to be used at law schools, bar associations, Inn of Court chapters, and other organizations.

WG6 published the final post-public comment version of its *Practical In-House Approaches for Cross-Border Discovery and Data Protection* in June 2016. The Sedona Conference *International Principles for Addressing Data Protection in Cross-Border Government & Internal investigations: Principles, Commentary and Best Practices* will be released for public comment in the next couple of months. WG6 also plans to publish an updated “transitional” version of its *International Principles on Discovery, Disclosure & Data Protection: Best Practices, Recommendations & Principles for Addressing the Preservation Discovery* in January 2017. WG6 has a number of regional committees addressing cross-border issues in the European Union, the Middle East, APAC and Latin America, as well as committees on corporate counsel, government and internal investigations, membership, and professional resources and outreach.

WG7 (Sedona Canada) published the final post-public comment version of the Second Edition to *The Sedona Canada Principles Addressing Electronic Discovery* in November 2015. The Second Edition has already been cited by the Superior Court of Justice in Ontario. See *Thompson v. Arcadia Labs, Inc.*, 216 ONSC 3745 (CanLII) (June 6, 2016).

Following public comment, the WG9 *Commentary on Patent Damages and Remedies* is being split into two stand-alone Commentaries—a WG9 *Commentary on Reasonable Royalty Determinations*, and a WG9 *Commentary on Case Management of Patent Damages and Remedies Issues*. In April 2016, WG9 published for public comment a Proposed Model Local Rule for Damages Contentions, which ultimately will be incorporated into the forthcoming second WG9 Commentary. WG9 plans to publish for public comment a commentary on Standard Essential Patent/FRAND issues.

WG10 published its final/post-public comment versions of four Commentary Chapters on Patent Litigation Best Practices, consisting of: Use of Experts, *Daubert*, and Motions in Limine Chapter (Dec. 2015); Discovery Chapter (Dec. 2015); Case Management Issues from the Judicial Perspective (Dec. 2015); and Parallel USPTO Proceedings Chapter – Stage One (Oct. 2016). WG10 also published for public comment its Patent Litigation Mediation Chapter (Apr. 2016), Heightened Pleading Standards Chapter (May 2016), Section 101 Motions on Patentable Subject Matter Chapter (Sept. 2016), and a supplemental section on Exception Case Determinations (Oct. 2016). WG10 formed drafting teams to address International Trade Commission/Sect. 337 Litigation, Biopharma Patent Litigation, and Multi-District Litigation/“Pseudo-MDLs.”

WG9 and WG10 jointly plan to publish a Patent Litigation Handbook in a special edition of The Sedona Conference Journal compiling the final versions of the publications described above.

This past year, WG10 worked with several groups to provide presentations relating to the WG10 *Commentary on Patent Litigation Best Practices*, including at the Third Circuit Judicial Conference, the Ninth Circuit Judicial Conference, the Federal Circuit Bar Association Bench & Bar Conference, the American Intellectual Property Law Association Annual Meeting, and the Intellectual Property Owners Association Annual Meeting.

WG11 has a number of draft publications underway addressing data security and privacy liability and anticipates releasing public comment versions of the following in the next few months: the *Data Privacy Primer*, the *Incident Response Guide*, and the *Commentary on Data Security & Privacy Issues in Mergers & Acquisitions*. In the past year, WG11 has organized brainstorming groups on privilege issues in data security litigation (which led to the recent formation of a drafting team), privacy by design, ROI, communicating with executives, data security and privacy issues in civil litigation, and law firm data security.

The Sedona Conference takes Working Group content and disseminates it to the bench and bar in the United States and around the world through its publications, including The Sedona Conference Journal, and its “Voices from the Desert” webinars. The Sedona Conference also makes presentations of Working Group content to judicial groups and various bar organizations. Finally, The Sedona Conference Institute disseminates this content through continuing legal education programs presented both domestically and internationally, including the recent programs described below.

On March 17-18, 2016 we held The 10th Annual Sedona Conference Institute Program on eDiscovery: *Staying Ahead of the eDiscovery Curve: Retooling Your Practice Under the New Federal Rules* in San Diego, California. This program continues our decade-long reputation for presenting cutting edge, practical, and balanced training for eDiscovery lawyers, in-house legal personnel, eDiscovery service providers, and electronic records management professionals. The 11th Annual Sedona Conference Institute Program on eDiscovery: *Discovery in a Dynamic Digital World* is scheduled for March 2-3, 2017 in Houston, Texas.

The 8th Annual Sedona Conference International Programme on Cross-Border Discovery and Data Protection Laws was held on June 7-8, 2016, in Berlin in order to explore the rapidly evolving landscape of the European data protection regime, including the proposed new General Data Protection Regulation (GDPR), the judgment of the European Court of Justice on Safe Harbor, and the new EU-U.S. Privacy Shield agreement. Attendees from thirteen countries were represented.

On October 24-25, 2016, we held the 16th Annual Sedona Conference on Patent Litigation: *Global Strategies for Managing Both Multifront Domestic and International Litigation of IP Assets* in Washington, DC. The conference focused on topics identifying and explaining the emergence of alternatives to the traditional model of U.S. District Court litigation, comparative approaches across different international patent regimes, and the interplay between international competition policy and IP enforcement. Our outstanding faculty included 10 federal judges from the United States District Courts, United States Courts of Appeals, the United States Patent Trial and Appeal Board, and the United States International Trade Commission, plus representatives from the United States Department of Justice, Antitrust Division, the Federal Trade Commission, the European Patent Office, and the United States Patent & Trademark Office. As a follow on to this Conference, WG10 is currently soliciting input from its members to identify tipping points in the law that might serve as potential new Working Group drafting team projects and to gauge the degree of interest in joining any such efforts in this international patent litigation space.

In March 2016 The Sedona Conference Institute held its sold-out annual program on eDiscovery Negotiation Training. This program is a unique, pretrial legal skills program which utilizes a litigation hypothetical and mock exercises to explore practical cooperative strategies to use during the discovery process. Participants learn and impart valuable tactics and strategies that are mutually beneficial in resolving eDiscovery disputes, thereby saving time and cost for all parties involved. The training component of this program and the small student-to-faculty ratio make it the most unique program Sedona offers. The program will be held again in February 2017 in Miami, Florida.

THE WGS ANNUAL SPONSORSHIP PROGRAM

The Working Group Series Annual Sponsorship program is an essential component of our overall funding, allowing us to support the efforts of existing and future Working Groups. We also depend on our WGS Annual Sponsor Program to expand our judicial education efforts and produce other conferences and programs to bring the collective wisdom generated in our Working Groups to the broader benefit of the Bench and Bar.

Our goal is to reach 60 WGS Annual Sponsors for our 2017 fiscal year beginning July 1, 2017. This will enable us to effectively serve the public good as a truly balanced and non-partisan law and policy think tank dedicated to the reasoned and just advancement of the law.

When you look at competing requests for donations and sponsorships, we hope that you will recognize the significant and positive impact The Sedona Conference has on the legal system. Being a Working Group Series Annual Sponsor is an effective way to reflect your commitment to improving the legal system while being fully engaged in our Working Group efforts.

THE BENEFITS

- First and foremost, you will play an integral role in enabling The Sedona Conference to fulfill its mission and continue to develop consensus-based, non-partisan work product and advanced legal education programs.
- WGS Annual Sponsors are entitled to an unlimited number of complimentary annual Working Group Series memberships for their individual employees during the fiscal year of their sponsorship. This enables all of your interested colleagues to join our different Working Groups, to have access to all of our Working Group members-only areas on our website, to see and comment on all draft works in progress, to volunteer to participate in all activities of each of our Working Groups, and to be eligible to register for any of our Working Group meetings (up to capacity). WGS members also receive discounts on registration fees for our regular season conferences, TSCI conferences, and our “Voices from the Desert” webinars, as well as a discount on the subscription to The Sedona Conference Journal.
- WGS Annual Sponsors may identify an individual (who is not a Sponsor employee) to receive a Sedona Scholarship to accompany your Sponsor representative as his or her guest at a Sedona Working Group meeting of choice. The guest will receive a complimentary registration and a complimentary Sedona membership for three months, because Working Group meetings are not open to nonmembers. The Sedona Scholarships are offered only to individuals who have never attended a Sedona Working Group meeting, in order to attract potential new thought leaders to The Sedona Conference. We hope you will use this opportunity to take a client or other guest who you want to introduce to The Sedona Conference Working Group experience. It’s a great way to show your appreciation for the relationship and to demonstrate your personal commitment to moving the law forward in a reasoned and just way.
- WGS Annual Sponsors have their names and logos posted on the Sponsors page of our website, with a link to their own websites, during the period of their sponsorship.
- We have created a special WGS Annual Sponsor logo for use by Sponsors as they see fit during the period of their sponsorship, so long as it does not imply endorsement by The Sedona Conference of our Sponsor’s services.
- A reference to our WGS Annual Sponsors (and the page of our website where they are listed) is included in all of our Working Group Series publications and The Sedona Conference Journal.
- WGS Annual Sponsors receive a complimentary copy of The Sedona Conference Journal published each year.
- WGS Annual Sponsors receive a royalty-free license to reprint WGS publications to hand out to individual existing and prospective clients or for internal use, such as in-house training, and may post WGS publications on their private, secure intranets, during the period of their sponsorships.

- When selecting faculty for Sedona conferences and webinars, and when selecting drafting team members for Working Group commentary drafting projects, we look first to our WGS Annual Sponsors to see if they have representatives with the necessary qualifications and experience to fill the slot before looking elsewhere.
- WGS Annual Sponsors will be invited to participate in conference calls of the Sponsor Advisory Council to discuss with management of The Sedona Conference their ideas and suggestions for improving the work of The Sedona Conference and to help identify new tipping point issues where the influential guidance of The Sedona Conference Working Groups can move the law forward.
- The Sedona Conference pays special attention to tagging, liking, sharing, and promoting our WGS Annual Sponsors and WGS Annual Sponsor representatives on social media. The Sedona Conference is active on Twitter, LinkedIn, and Facebook. Whether it be tagging individual dialogue leaders or faculty in posts, liking updates, sharing upcoming events and articles written by WGS Annual Sponsors and their representatives, or even posting about awards and triumphs of WGS Annual Sponsors and their representatives, we seek to actively engage and educate our social media networks about The Sedona Conference community.

THE COST & HOW TO SIGN UP FOR THE FYE 6/30/18 WGS ANNUAL SPONSOR PROGRAM

The Sedona Conference is a nonprofit, 501(c)(3) public charity. Contributions or gifts to The Sedona Conference are tax-deductible under Section 170(c) of the Internal Revenue Code. Sponsorship costs \$10,000/year: \$4,000 of the WGS Annual Sponsor fee is treated by us as a charitable donation, and \$6,000 as payment for the goods and services described above.

To sign up, just send me an email (cweinlein@sedonaconference.org) confirming that your firm or company wants to become a WGS Annual Sponsor for FYE 6/30/18. Please also let me know the exact way you want your firm or company to be listed as a sponsor on our website, and the URL to use to link your listing to your website. We also want a vector file of your company logo to display on the Sponsor page of our website. We will send out our official welcome letter and invoice in June 2017 for payment in July 2017.

Further background information on The Sedona Conference can be found on our website. Please don't hesitate to let me know at any time if you have any questions or require further information. Thank you very much for your consideration of this invitation.

With my best regards



Craig W. Weinlein
Executive Director
The Sedona Conference