The Role of the Expert Witness in Technology Litigation

IEEE Consultants Network of Silicon Valley
April 16, 2002

Katherine Ford Horvath
Fish & Richardson PC
The Challenge:

Understanding and explaining complex technology to a judge and jury…
The Solution:

Hire the right expert witness.
What is technology litigation?

- Patent
- Trade secret
- Antitrust
- Other IP
Anatomy of a Litigation

- The case begins
- Discovery
  - Documents
  - Depositions
- Motions
- Expert reports
- Hearings
- Trial
What is the expert’s role?

- Technology analyses
- Teaching
- Testifying expert
- Non-testifying expert
- Special Master
Purpose:

Advocacy v. Just the facts ma’am
Credibility

The slippery reputation slope...

Integrity is key.
Tips for Working with Lawyers

- Be patient
- Be flexible – deadlines move
- Be a teacher
- Communicate
- Say no
Which credentials matter?

- Degrees
- Industry experience
- Teaching ability
- Communication skills
- Presence
How do I find experts?

- Clients
- IEEE Consultants
- Universities
- Industry
- Recommendations
- Publications
Privilege Issues

- Attorney/client privilege
- Work product immunity
- Testifying v. non-testifying expert
- Protective orders