

**Minutes of the Meeting of the Intellectual Property Law Committee of the Business Law Section of the Florida Bar, Thursday, June 19, 2008 – Boca Raton Hotel and Club, Boca Raton, Florida**

A meeting of the Intellectual Property Law Committee (the “Committee”) of the Business Law Section (“BLS”) of the Florida Bar was conducted on June 19, 2008 in conjunction with the mid-year meeting of the Florida Bar at the Boca Raton Hotel and Club in beautiful Boca Raton, Florida. The Committee Chair, Mark E. Stein, welcomed everyone and called the meeting to order at approximately 9:15 a.m.

**ATTENDANCE**

Mark Stein requested that everyone sign the attendance sheet to reflect those present at the meeting. In attendance were:

<b>Name</b>	<b>E-Mail</b>
Mark Stein	<a href="mailto:mestein@lfiplaw.com">mestein@lfiplaw.com</a>
Joel Rothman	<a href="mailto:jrothman@seidenlaw.com">jrothman@seidenlaw.com</a>
Jorge Espinosa	<a href="mailto:jespinosa@etlaw.com">jespinosa@etlaw.com</a>
Kevin Crosby	<a href="mailto:Kevin.Crosby@brinkleymorgan.com">Kevin.Crosby@brinkleymorgan.com</a>
Catherine Hoffman	<a href="mailto:cathy@mayback.com">cathy@mayback.com</a>
Thomas Sadaka	<a href="mailto:tsadaka@seidenlaw.com">tsadaka@seidenlaw.com</a>
Doug Cherry	<a href="mailto:dcherry@abelband.com">dcherry@abelband.com</a>
Ury Fisher	<a href="mailto:ufischer@lfiplaw.com">ufischer@lfiplaw.com</a>
Larry Kunin	<a href="mailto:lkunin@mmmlaw.com">lkunin@mmmlaw.com</a>
Misha Kerr	<a href="mailto:mkerr@seidenlaw.com">mkerr@seidenlaw.com</a>
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Steve Milbrath	<a href="mailto:smilbrath@addmg.com">smilbrath@addmg.com</a>
Bridget Heffernan Labutta	<a href="mailto:blabutta@addmg.com">blabutta@addmg.com</a>
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Ava Doppelt	<a href="mailto:adoppelt@addmg.com">adoppelt@addmg.com</a>
Darren Spielman	<a href="mailto:dspielman@complexip.com">dspielman@complexip.com</a>
Robert Kain	<a href="mailto:rkain@complexip.com">rkain@complexip.com</a>
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## **MINUTES FROM THE JANUARY 17, 2008 MEETING**

Ava Doppelt moved to approve the minutes from the January 17, 2008 meeting of the Committee that took place at the Hyatt Conference Center in Miami, Florida. The Motion was seconded by Doug Cherry. The minutes were approved unanimously.

### **OLD BUSINESS: REPORT ON IP CERTIFICATION**

Bob Kain reported on the status of IP Certification. Bob indicated that the certification process was going smoothly, but that he needed to obtain the numbers of applications for this year's IP Certification and report back to the committee.

### **CLE PROGRAMS**

The chair asked for volunteers to host lunch and learn programs. The chair indicated that his firm would conduct the program at their offices. In addition, Kevin Crosby indicated that his firm would host a lunch and learn program. The vice chair and Robert Pershes indicated they would co-host a lunch and go program in Boca Raton.

### **UNIFORM PATENT RULES**

Doug McDonald advised the committee regarding the status of proposed uniform rules in patent cases. Doug discussed the proposed scheduling order for patent infringement cases that had previously been distributed to the committee. He commented that the schedule was an aggressive one where initial disclosures were due very quickly.

Doug went through the different portions of the proposed rules. He commented that the rules included a default protective order provision so discovery would not be delayed. Doug also reviewed the deadlines and the requirements contained in the rules. Doug noted that anyone who had litigated before the International Trade Commission would be familiar with the short

deadlines since that court requires a decision be rendered within 13 months of filing.

Doug commented that Middle District Judges Merryday and Magistrate Judge Piezzo currently use a version of the proposed patent infringement rules. Doug indicated the plan was to get comments on the rules, make revisions to them, and then present them to Judges Merryday and Pizzo for comment. If Judges Merriday and Pizzo agree with the rules the I.P. Committee would present them to the judicial conference of the Middle District for acceptance in application in all patent infringement cases.

While the Middle District of Florida is not considered a "rocket docket," Doug indicated that it has the third fastest disposal rate for cases in the country. In other words, in the Middle District one gets to the end of the case rather quickly.

Members of the committee then discussed the proposed patent rules. Concern was raised regarding reducing or restricting client rights through the use of the rules. Concern was also raised regarding the time limits set forth in the rule and the early disclosure deadlines. The chair indicated that the rules were posted on the committee web site and blog and that input is being requested so that the version of the rules could be finalized in the near future.

### **E-DISCOVERY TASK FORCE**

Doug Cherry announced the e-discovery seminar being sponsored by the computer and technology law committee the following day. Doug also indicated that for the last two years a committee of the bar has been working on e-discovery amendments to the Florida Rules of Civil Procedure. There was a meeting of this committee at the mid-year meeting of the Bar in January. The questions raised were essentially whether to utilize the federal rules amendments for e-discovery or go beyond these amendments and adopt more detailed rules. As a result of

these meetings it was determined that the business and complex litigation courts in this state will be the first testing ground for these proposed rules. Doug noted that the rules for the Orange County business courts follow the federal rules quite closely. Doug indicated that the rules would be distributed to the committee for comment.

### **IP PAMPHLET**

The chair thanked Steph Negin and Leora Hermann for their hard work on the intellectual property pamphlet. The chair asked the committee for comments to the pamphlet which was distributed to the committee. Steph Negin commented that the pamphlet had been in development for upwards of 15 years. Leora Hermann encouraged members to send her comments by email. Bill Trueba noted that the pamphlet was written for a layperson and should be evaluated from that perspective.

### **COMMITTEE COMMUNICATIONS**

The chair raised issues concerning communications among committee members and noted that the blog was underutilized. The chair requested comments from members concerning how to improve communications. A discussion ensued concerning the use of the blog and other means of communication to update members. The vice chair noted that the blog could be configured to provide email notifications of new items. It was determined that the committee leadership in conjunction with Leora Hermann would investigate ways to make the committee blog more useful and accessible to members.

### **ANNOUNCEMENTS FROM THE CHAIR AND VICE CHAIR OF THE BUSINESS**

#### **LAW SECTION**

Russ Blaine (BLS, chair-elect), Lou Conti (BLS, secretary-treasurer), and Bill Wiley

(BLS lobbyist) welcomed all the attendees and thanked everyone for attending. Russ announced the luncheon and Executive Council meeting and also advised all in attendance that the BLS reception would take place in the evening after the executive council meeting. Russ mentioned the successful CLE programs that had been scheduled including the computer law CLE program on e-discovery and encouraged everyone to get involved in CLE lunch and learn programs.

Lou discussed the section retreat scheduled for Labor Day weekend at the Ritz Carlton in Naples, Florida. Lou advised everyone to get their hotel reservations and register for the program as soon as possible.

Bill Wiley requested that all committee members get involved in the legislative process and support legislative candidates who have been resources to the BLS in the past.

#### **CHAPTER 815 AMENDMENTS**

The chair discussed the pending project for a re-write of Chapter 815 of the Florida statutes. Tom Sadaka commented that Chapter 815 on computer crimes and intellectual property theft is based upon a 1977 draft of the statute. The chair commented that he contacted the Criminal Law Section and requested their involvement, and that this committee would wait for a response from the Criminal Law Section before proceeding further.

#### **OLD BUSINESS**

The chair asked committee members for suggestions regarding other committee projects and a general discussion ensued regarding possible additional projects for committee involvement.

The chair thanked Bridget Heffernan Labutta for her hard work on the case notes contained in the business law section journal. The chair also thanked committee members

Stephen Luther, Robert Thornburg, Allison Cammack, Steven Milbrath, Jack Adid, David Carus, Stephen Nagin, James Matulis, and Abby Dritz for their contributions to the journal.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at approximately 10:30 a.m. to allow members to attend a CLE presentation being given to the entire section.