

**Minutes of the Meeting of the Intellectual Property Law Committee of the Business Law Section of the Florida Bar, Saturday, August 30, 2008 – Ritz Carlton Hotel, Naples, Florida**

A meeting of the Intellectual Property Law Committee (the “Committee”) of the Business Law Section (“BLS”) of the Florida Bar was conducted on August 30, 2008, in conjunction with the Business Law Section Retreat at the Ritz Carlton Hotel in beautiful Naples, Florida. The Committee Chair, Mark E. Stein, welcomed everyone and called the meeting to order at approximately 9:00 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>           |
| Samuel Lewis   | <a href="mailto:slewis@feldmangale.com">slewis@feldmangale.com</a>           |
| Stephen Thomas | <a href="mailto:sthomas@hctlaw.com">sthomas@hctlaw.com</a>                   |
| Ken Hartmann   | <a href="mailto:krh@kttlaw.com">krh@kttlaw.com</a>                           |
| Steve Milbrath | <a href="mailto:smilbrath@addmg.com">smilbrath@addmg.com</a>                 |
| Ty Giltinan    | <a href="mailto:tgiltinan@carltonfields.com">tgiltinan@carltonfields.com</a> |
| Dave Ellis     | <a href="mailto:ellislaw@alum.mit.edu">ellislaw@alum.mit.edu</a>             |
| Jeff Grubman   | <a href="mailto:jeff@jeffgrubman.com">jeff@jeffgrubman.com</a>               |
| Jorge Espinosa | <a href="mailto:jespinosa@etlaw.com">jespinosa@etlaw.com</a>                 |
| Keith Lipscomb | <a href="mailto:klipscomb@lbbfirm.com">klipscomb@lbbfirm.com</a>             |
| Sharon Ellis   | <a href="mailto:sellis@assoulineberlowe.com">sellis@assoulineberlowe.com</a> |

|                      |  |
|----------------------|--|
| Larry Kunin          | <a href="mailto:lkunin@mmmlaw.com">lkunin@mmmlaw.com</a>                   |
| Karen Koster Burr    | <a href="mailto:kburr@addmg.com">kburr@addmg.com</a>                       |
| Ross Gagliano        | <a href="mailto:rgagliano@grsforensics.com">rgagliano@grsforensics.com</a> |
| Christopher Paradies | <a href="mailto:cparadies@fowlerwhite.com">cparadies@fowlerwhite.com</a>   |
| Doug Cherry          | <a href="mailto:dcherry@abelband.com">dcherry@abelband.com</a>             |
| Bill Berger          | <a href="mailto:wberger@raa-law.com">wberger@raa-law.com</a>               |
| David Friedland      | <a href="mailto:dkfriedland@lfiplaw.com">dkfriedland@lfiplaw.com</a>       |
| Ury Fisher           | <a href="mailto:ufischer@lfiplaw.com">ufischer@lfiplaw.com</a>             |
| Stephen Nagin        | <a href="mailto:snagin@bellsouth.net">snagin@bellsouth.net</a>             |
| William Trueba, Jr.  | <a href="mailto:wtrueba@etlaw.com">wtrueba@etlaw.com</a>                   |
| Steve Peretz         | <a href="mailto:speretz@kpkb.com">speretz@kpkb.com</a>                     |
| Leora Herrmann       | <a href="mailto:lherrmann@kpkb.com">lherrmann@kpkb.com</a>                 |
| Stephen Luther       | <a href="mailto:sluther@addmg.com">sluther@addmg.com</a>                   |
| Jeanne Seewald       | <a href="mailto:jseewald@hahnlaw.com">jseewald@hahnlaw.com</a>             |
| Doug McDonald        | <a href="mailto:dmcdonald@carltonfieds.com">dmcdonald@carltonfieds.com</a> |
| Robert Thornburg     | <a href="mailto:thornburg@crgplaw.com">thornburg@crgplaw.com</a>           |

## **MINUTES FROM THE AUGUST 30, 2008 MEETING**

Stephen Nagin moved to approve the minutes from the June 19, 2008 meeting of the Committee that took place at the Boca Raton Resort and Club in Boca Raton, Florida. The Motion was seconded by Doug McDonald. The minutes were approved unanimously.

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

The Chair reported on the status of IP Certification. The chair indicated that 17 lawyers have applied and several have requested the 20 year exemption for IP Certification and that a one year extension of the exemption deadline has been granted for the coming year. Steph Nagin warned members of the committee that filling out the application for certification can be daunting since the application is extensive so do not leave it to the last minute. A suggestion was made that an up-to-date list of members of the certification committee be obtained.

## **UNIFORM PATENT RULES**

Doug McDonald advised the committee regarding the status of proposed uniform rules in patent cases. Doug indicated that based upon feedback he received some extensions of deadlines have been added to the proposed scheduling order for patent infringement cases that had previously been distributed to the committee.

Doug discussed the patent rules in the Eastern District of Texas. He indicated that the goal was to devise rules that would work well for both plaintiff and defendant. The committee will post the revised version of the proposed rules for further comment on the committee blog and comments are welcomed. Once again, input is being requested so that the version of the rules could be finalized in the near future.

## **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. Bill Wiley discussed proposed revisions to Chapter 815 and the Governor's Recording Industry Task Force. Mr. Wiley stated that he would assist us in contacting a representative from the Governor's office working on this task force. Mr. Wiley requested everyone contact their legislators and get involved in the legislative process, especially as it pertains to protecting court funding.

Russ announced the luncheon and welcomed everyone to the retreat and the myriad of activities planned for the weekend.

### **CLE PROGRAMS**

CLE Program Chair Robert Thornburg reported on the successful Lunch & Learn programs presented recently, including one at Carey Rodriguez in Miami. Bob asked for volunteers to host lunch and learn programs. Karen Koster Burns indicated that her firm would host a lunch and learn program in Jacksonville in January or February.

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

Doug Cherry announced that the E-Discovery Task Force met this morning and reviewed a draft version of the e-discovery rules for the Orange County business courts. Stephen Nagin advised members that the Supreme Court had an active task force on complex litigation with a proposed set of rules out for comment, comments being due by September 15<sup>th</sup>. Steph Nagin stated that the Florida Supreme Court website would have the proposed rules and a discussion. Doug indicated that the task force would investigate further.

### **IP PAMPHLET**

The Chair thanked Steph Negin and Leora Hermann for their hard work on the intellectual property pamphlet which has been distributed in final form to the entire committee. Steph Negin moved that the pamphlet be approved by the committee and presented to the Section so that it could be published by the Bar. Ken Hartmann seconded the motion. The motion passed unanimously.

Karen Koster Burns volunteered to draft a separate pamphlet on trade secrets for future consideration by the committee. The committee also discussed possibly breaking the pamphlet down into separate pamphlets on different areas such as copyright, patent, trademark, etc.

### **COMMITTEE COMMUNICATIONS**

The committee discussed the use of the Blog and the Chair noted that over the weekend at the retreat the committee leadership would be meeting with Leora Hermann to discuss making better use of the blog.

### **OLD BUSINESS**

The Chair asked committee members if anyone else had other goals for committee projects and who was interested in participating. Ken Hartmann indicated that the Chair's suggestion of a NITA/INTA trial advocacy program was a good one. Ken stated that there already were patent and trade secrets case files available for the program, but otherwise NITA does not have IP specific materials. The initial step should be to inquire of NITA whether they would be willing to collaborate. Steph Negin suggested that the program could be held at Nova law school. David Ellis stated that he thought NITA/INTA had done trademark infringement programs in the past. The Chair stated that he attended a program in Chicago at Loyola law

school. The Vice Chair suggested getting law school involvement would be critical. Ken Hartmann volunteered to work with the Chair on the issue.

The Chair raised the possible project of revising the TMEP used by the Florida Secretary of State.

Ken Hartmann indicated that drafting proposed IP jury instructions was a worthwhile project. Steve Peretz questioned whether such instructions were necessary.

**CLE PRESENTATION: MEDIATING INTELLECTUAL PROPERTY DISPUTES**

Jeff Grubman, Certified Mediator, of Boca Raton gave a presentation on mediating intellectual property disputes that was well received by all in attendance. The CLE code number for obtaining credit is 58458.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at approximately 12:00 p.m.