

IPLS PROCEEDINGS

STATE BAR OF MICHIGAN

The Latest on the USPTO's Electronic Filing System

By Denise Glassmeyer

Volume 18 • Issue 1 • 2006

Table of Contents

The Latest on the USPTO's Electronic Filing System.....	1
From the Chair	2
Legislative Changes/ Updates.....	3
Education Center at the State Bar of Michigan.....	3
Calendar of Events.....	3
Semi-Pro Pro Bono	4

Where do we get our information?

The Internet has opened up a world of opportunity to locate just about any type of information you can imagine. A couple of links you may find interesting and helpful to your practice are:

- <http://www.ipmall.info/> This link is to the Pierce Law IPmall. It really is an incredible collection of resources and includes great links to external sources. There are over 2,700 links under the IP Links section.
- <http://www.pat2pdf.org>. This site is a free patent search tool and can be used to print free patent pdfs.
- <http://www.pcug.org.au/~rossco/patentsearching.htm>. This site indexes many of the notable free patent search databases on the Internet.

The Intellectual Property Law Section of the State Bar of Michigan is offering a half-day seminar entitled “The Latest on the U.S. Patent and Trademark Office’s Electronic Filing System” at two locations in the state. The seminar will be held in Troy on October 9, 2006 at the MSU Management Education Center and in Grand Rapids at the Eberhardt Center at Grand Valley State University. The fall seminar has been organized under the guidance and direction of section council members Andrew (Jake) Grove and Mark Davis.

The IPLS has invited Kathryn Hook and Shanna Sims of the USPTO to present training and overview of the electronic filing system introduced to the general public in March of 2006. Ms. Hook and Ms. Sims will be presenting a 3 1/2 hour seminar that will include sessions designed to introduce attorneys and support staff to the mechanics and potentials of electronic filing, including an overview of what can and cannot be filed as well as technical concerns such as customer numbers and digital certificates. The seminar will also include sessions on the new fall releases on EFS-Web 1.1 and Private PAIR 7.0 designed to provide those with more experience in electronic filing with up-to-date information about updates and changes in the USPTO electronic filing system.

This seminar is part of the section’s continuing efforts to provide a fall seminar at locations convenient to practitioners on both the eastern and western sides of Michigan addressing specific areas of interest to practitioners in intellectual property law. Past seminars have addressed topics in trademark law and an overview of international filing under the Patent Cooperation Treaty.

“Our goal has been to provide a fall seminar that provides something of value to both our section members and to members of their various support staffs,” said Beverley Bunting, section chair. “The fall seminar has traditionally included the ‘nuts and bolts’ topics valuable to support staff and practitioner alike as well as strategic pointers and discussion to enhance the practitioner’s knowledge and practice.”

At \$55 for general registration, the fall seminar is priced to encourage support staff attendance. The registration fee includes lunch. “This seminar provides an opportunity for the practitioner to hone his or her skills and to provide an affordable learning opportunity for key members of his or her support staff at an affordable price and a convenient location,” says Ms. Bunting. “It is part of the ongoing effort of the section to support our members and the general community.” ?

Chair:

Beverly M. Bunting

Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski
P.O. Box 7021
2701 Troy Center Drive, Suite 330
Troy, MI 48007-7021
E-mail: bbunting@patlaw.com
Phone: (248) 647-6000
Fax: (248) 647-5210

Chairperson-Elect:

Laura M. Stenzak, Auburn Hills
Phone: (248) 209-5698

Secretary-Treasurer:

Denise M. Glassmeyer, Troy
Phone: (248) 649-3333

Term Expires 2007:

Frank A. Angileri, Southfield
Phone: (248) 226-2829

Gregory P. Bondarenko, Grand Rapids
Phone: (616) 752-2420

John M. Naber, Ann Arbor
Phone: (734) 623-1931

Term Expires 2008:

Mark A. Davis, Bloomfield Hills
Phone: (248) 723-0369

Andrew M. Grove, Troy
Phone: (248) 689-3500

Jennifer S. Warren, Midland
Phone: (989) 636-9785

Term Expires 2009:

Jennifer Sheehan Anderson, Bloomfield Hills
Phone: (248) 566-8532

David L. Wisz, Birmingham
Phone: (248) 988-8360

Austin W. Zhang, Ann Arbor
Phone: (734) 622-5035

Ex-Officio:

Craig A. Baldwin, Auburn Hills

Commissioner Liaison:

Rodger D. Young, Southfield

Editors:

Jennifer Sheehan Anderson

Honigman Miller Schwartz and Cohn LLP
38500 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304-5048
Phone: (248) 566-8532 Fax: (248) 566-8533
E-mail: janderson@hongiman.com

Denise Glassmeyer

Young & Basile, PC
3001 W. Big Beaver Rd., Ste 624
Troy, MI 48084
Phone: (248) 649-3333 Fax: (248) 649-3338
E-mail: glassmeyer@ybpc.com

Jennifer S. Warren

Dow Chemical Company
Washington St., 1790 Bldg
Midland, MI 48674
Phone: (989) 636-9785 Fax: (989) 636-9785
E-mail: jswarren@dow.com

From the Chair - Beverly M. Bunting

With the approach of fall, we begin the 2006-2007 Intellectual Property Law Section year. The council for the upcoming year includes nine returning members and three new members. You may be wondering what the council actually does, and what benefit a section member receives for participating. One of our goals is education. We welcome and utilize your suggestions of topics and speakers. The section traditionally plans and sponsors a spring seminar in March. The purpose of this seminar is to provide in-depth topics of interest to all practitioners in I.P. In recent years, we have initiated both a patent track and a trademark/copyright track. The sessions are led by speakers with notable expertise. Also, we plan and co-sponsor with ICLE a Summer Institute every July. Again, two tracks are offered, and the speakers have a national reputation in their area of expertise. Based on survey feedback from the most recent Summer Institute, we will cycle the location between Mackinac Island (two years) and Northern Michigan (one year). In addition, we are again sponsoring a Fall seminar. On October 9 in Troy and October 10 in Grand Rapids, representatives from the USPTO will discuss the USPTO's new electronic filing system. This informative session is beneficial for attorneys as well as paralegals and administrative assistants.

Another goal of the council is communication. Last year, we updated the format of *Proceedings* to make it more user friendly. We are also trying to improve

the content of *Proceedings*. To achieve this goal, we need your assistance. Send your comments or suggestions to bbunting@patlaw.com. We also welcome submissions for publication!

Still another goal is to provide networking opportunities for section members. We have initiated a corporate roundtable luncheon and a women in IP networking breakfast, both at the Summer Institute. We hope to expand on these networking opportunities over the upcoming year.

2006-2007 promises to be a year of change for those practicing IP. The Supreme Court has taken up a case of local interest, *KSR v. Teleflex*, which will most likely effect requirements for showing obviousness. The USPTO is in trouble and has proposed sweeping initiatives. They have indicated that changes, in some form, will be implemented over the next year. The USPTO believes that patent quality will improve with better examination, which means more involvement by the practitioner in prior art submissions. In addition, Congress continues to consider patent reform. Two groups have been formed in support of patent reform measures, the Patent Fairness Group and the Coalition for Patent Reform. These two groups count among their membership fortune 500 companies with a strong interest in preserving technological innovation.

Bottom line: the practice of IP is changing. If you haven't been to one of our seminars in recent years, this is the year to attend and be informed. ?

Submissions to *IPLS Proceedings*

Articles of interest to the membership are actively solicited for publication on the IPLS website. If you have recently researched a topic of interest to our membership, please consider a submission. Submissions should be sent directly to the editor:

Jennifer Sheehan Anderson

Honigman Miller Schwartz and Cohn LLP
38500 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304-5048

Fax: (248) 566-8533

E-mail: janderson@hongiman.com

Legislative Changes/Updates

By Frank Anglieri

A number of legislative changes are being considered in patent law. They include:

- Moving to a first-inventor-to-file system
- Changing the definition of prior art - limiting “grace period” to disclosures by inventor within one year of filing
- Changing the inventor’s Oath or Declaration
- Allowing assignee (rather than only inventor) to file
- Repealing Best Mode requirement
- Modifying duty of candor in USPTO
- Apportionment of damages - limiting damages to those based on “inventive contribution” or “claimed invention,” as distinguished from “other features of the invention”
- Willful infringement - limiting availability of treble damages; prohibiting pleading willfulness until court determines validity/enforceability
- Authorizing PTO director to prepare regulations limiting continuation applications
- Publication of all applications after 18 months
- Broader prior user rights
- *Inter Partes* reexamination
- Post-grant opposition proceeding in the USPTO
- Submissions of prior art by third parties
- Limiting § 271(f) to supplying a “tangible” (*i.e.*, not software) item that is itself combined physically with other components.
- Allowing district courts to appoint a patent specialist to receive more patent cases
- Limiting available venues where patent owner can file suit

For more information, visit the legislation update section of www.aipla.org or www.ipo.org.

Education Center at the State Bar of Michigan

The State Bar of Michigan has recently launched the Practice Management Resource Center. The PMRC is a broad-based clearinghouse and referral source for the information and resources necessary to successfully manage a law practice.

One of the components of the PMRC is the Educational Center based at the State Bar building in Lansing. The PMRC Educational Center is equipped with computer systems to facilitate “hands-on” software “test-drives.” The Educational Center hosts educational and training seminars and will soon house the Center’s Lending Library.

We cordially invite you, whenever your section or committee has a meeting at the State Bar building, to take a brief tour of the Educational Center and learn of the other resources the Practice Management Resource Center offers to our members, or even to schedule a time for your members to test-drive various software programs, if desired. If you believe it may be of interest to your members to learn more about the PMRC, we would be happy to facilitate a mailing to your membership or assist you with a notice that can be sent on your listserv.

To schedule a tour or reserve a block of time for software test-drives, call the PMRC Helpline at 1-800-341-9715.

Calendar of Events

October 9-10, 2006

The Latest on the U.S. Patent and Trademark Office’s Electronic Filing System

October 9

MSU Management Education Center, Troy

October 10

GVSU Eberhard Center, Grand Rapids
Registration form available at www.icle.org/USPTO

October 12, 2006

Council Meeting at 9:30 a.m.*

November 9, 2006

Council Meeting at 9:30 a.m.*

December 14, 2006

Council Meeting at 9:30 a.m.*

January 11, 2007

Council Meeting at 9:30 a.m.*

February 8, 2007

Council Meeting at 9:30 a.m.*

March 8, 2007

Council Meeting at 9:30 a.m.*

March 19, 2007

IPLS Meeting and Spring Seminar
Kellogg Center, East Lansing

April 12, 2007

Council Meeting at 9:30 a.m.*

May 10, 2007

Council Meeting at 9:30 a.m.*

June 14, 2007

Council Meeting at 9:30 a.m.*

July 12-14, 2007

Intellectual Property Law Institute
Grand Hotel on Mackinac Island

* Contact a council member for the meeting location.

Semi-Pro Pro Bono

By Laura Slenzak

*“Poor people don’t need patent applications.”
“Most of my clients are slow at paying or don’t pay at all. Doesn’t that count?”
“I don’t know anything about divorce law.”*

OK, so did I cover most of the usual excuses? Good, because there is no excuse. Intellectual property attorneys both *can* and *should* perform pro bono legal services. No, I’m not talking about giving away patent applications. I’m talking about using your legal training to help someone who has finally gotten the courage to change an unhealthy part of his or her life, through the use of the legal system.

If you can’t bear to read any further, visit <http://www.michbar.org/programs/ATJCampaign/> and at least give money to help support state and local free and reduced fee legal services organizations. Just because there is essentially no more state or federal funding for these entities doesn’t mean the need has gone away.

If you are interested to read on, let’s be very clear about two things. First, the need has never been greater. Between the lousy economy and the near decimation of federal and state funding for legal aid, even more lower income people are unable to obtain the legal services they need. And second, you have a professional obligation to provide legal services to those in need. It is part of the oath you took when you became a lawyer, and it is one reason that we fancy ourselves as having not merely a job but a profession.

So how does one become a pro bono divorce attorney? For me, it was easy. I attended a free training program, such as <http://www.michiganlegalaid.org/MPLP/Events/mplpevent.2006-04-18.3302700027>, and started. That’s all there was to it. I signed up, spent a day learning about new things, ate a free lunch, and walked away feeling a bit anxious but confident nonetheless. I immediately began working with what was then known as Oakland-Livingston Legal Aid, which has since been completely dissolved in the wake of the aforementioned state and federal budget cuts, and I am now affiliated with the Women’s Survival Center. In the past few years,

I’ve helped five women get divorced from abusive, drug-addicted absentee husbands. Besides fancying that I’ve helped those women feel empowered to change whatever other aspects of their lives that they feel are unhealthy or unsafe, I have to admit that I have immensely enjoyed the opportunity to feel like I am actually using my legal skills to help humanity. Nothing against patents, and trust me, I like my work, but I don’t really think God will want to know how many 112 rejections I overcame.

So what makes you think you can do this, too? Perhaps I should ask, what makes you think you can’t? If you survived a technical undergrad program plus law school, you are both an “intellectual” and an “attorney.” As a general lot, I’d say it’s also safe to generalize that most “intellectual” property “attorneys” are a “quick study.” The training programs

provided by the state and county bar associations give you all the forms and walk you through the usual steps, and the local agencies that you sign-up with make sure they send the easier cases your way while saving the more difficult cases for those who actually specialize in family law. Think about it: victims of domestic violence have generally been beaten both physically and emotionally. On top of this, if he or she has a low enough income to qualify for free legal services, chances are there isn’t a complicated marital estate to settle. What he or she needs is someone who can fill out the forms the right way, who can “talk legal” with the judge, and who can generally hold their hand while they begin the steps to once again hold their head up high. You should be so lucky to be able to spend a few non-billable hours helping this person rebuild his or her life! ?



MICHAEL FRANCK BUILDING
306 TOWNSEND STREET
LANSING, MI 48933-2083

www.michbar.org

PRESORTED
FIRST CLASS MAIL
U.S. POSTAGE PAID
Lansing, MI
PERMIT NO. 191