

SDIPLA NEWSLETTER

VOLUME 3, ISSUE 8 JULY 2002

SPECIAL ELECTION ISSUE—PROXY BALLOT ENCLOSED !

**ROBERT J. GUNTHER, LATHAM & WATKINS, COUNSEL FOR
CHUGAI PHARMA & CHUGAI PHARMACEUTICAL,
ON *BIOTECHNOLOGY PATENTING & THE WRITTEN
DESCRIPTION REQUIREMENT
IN THE WAKE OF ENZO V. CHUGAI***

About the Speaker:

Robert J. Gunther, Jr., a partner in Latham & Watkins' New York office, is Co-Chairman of the firm's Intellectual Property and Technology Practice Group. He has extensive experience in litigating and advising clients in the areas of intellectual property and antitrust, including patents, copyrights and trademarks.

(continued on page 4)



INSIDE THIS ISSUE:

NEW MEMBERS	2
BOARD CONTACT INFO	2
7/25/02 DINNER REGISTRATION FORM	3
ELECTION INFORMA-	5
PROXY BALLOT FORM	6

When and Where:

THURSDAY, 7/25/02

6:00 –8:30 p.m.

La Jolla Marriott

4240 La Jolla Village Dr.
(cross-street is Genesee
Blvd)

Phone (858) 587-1414

Directions:

From I-5, exit at La Jolla Village Drive and proceed .5 miles east on La Jolla Village Dr. Between Genesee and Regents Road.

From I-805, exit at La Jolla Village Dr. and proceed 1 mile west on La Jolla Village Dr.

ELECTIONS

Members, please find enclosed in this newsletter the proxy ballot for the elections to be held at the July 25, 2002 Dinner Meeting. All members are requested to attend. If you are unable, please use the proxy ballot to cast your vote.

SDIPLA
Board of Directors

President

Sam Talpalatsky
Conexant Systems Inc.
(858) 713-3231
sam.talpalatsky@conexant.com

Vice President

Richard C. Kim
Morrison & Foerster, LLP
(858) 720-5100
rkim@mofo.com

Secretary

Mark Wiczorek
Innercool Therapies, Inc.
(858)677-6390
markw@innercool.com

Treasurer

Vicki G. Norton
Brobeck, Phleger &
Harrison, LLP.
(858) 720-2500
vnorton@brobeck.com

Immediate Past President

Stephen S. Korniczky
Brobeck, Phleger &
Harrison, LLP.
(858) 720-2870
skorniczky@brobeck.com

DUES

All SDIPLA members are asked to send in their membership dues if they have not already. Please send checks (payable to SDIPLA) to:

Mark Wiczorek
SDIPLA Secretary
c/o Innercool Therapies
3931 Sorrento Valley Blvd.
San Diego, CA 92121

Checks should be made payable to SDIPLA in the following amounts:

Regular Members:

Dues: \$40/year

Law Students / Retired Members:

Dues: \$25/year

NEW SDIPLA MEMBERS

The following people have applied for SDIPLA membership. Active Members may oppose membership status to these individuals by lodging a formal notice of opposition. The opposition must include relevant grounds for disqualification and should be submitted to the Secretary, on or before 7/30/02.

Stan Pawlik

Bob Soltis

Law Office of Robert Alan Soltis

Leonard Santis

Frommer Lawrence & Haug

Cheryl Withycombe

Baker & McKenzie

Amanda Mineer

Innercool Therapies

Mazen Chmaytelli

Qualcomm

SDIPLA
WEBMASTER
David Guttman

SDIPLA News
Editor
Mark Wiczorek

SDIPLA WEBSITE UPDATE!

Members, please be sure to check the new features in the sdipla.org website for practice-related news and information.

And especially check the new "PTO Corner" Page for PTO News and Announcements.

SAN DIEGO INTELLECTUAL PROPERTY LAW ASSOCIATION

DINNER RESERVATION FORM

ROBERT J. GUNTHER, LATHAM & WATKINS, COUNSEL FOR CHUGAI PHARMA & CHUGAI PHARMACEUTICAL, ON BIOTECHNOLOGY PATENTING & THE WRITTEN DESCRIPTION REQUIREMENT IN THE WAKE OF ENZO V. CHUGAI

THURSDAY, July 25, 2002

San Diego Marriott La Jolla

Mixer 6:00 p.m. (No Host Bar)

Dinner 6:30 p.m.

Presentation 7:00-8:30 p.m.

Mixed Green Salad with Balsamic Vinaigrette

With one of the following entrees:

Breast of Chicken with a Pinot Noir Glace

** OR **

Grilled Salmon Served with a Dill Sauce

OR

Pasta Primavera (vegetarian)

With

Chef's Selection of Accompaniments

New York Cheesecake, Raspberry Sauce

Freshly Brewed Columbian Coffee and Assortment of Tazo International and Herbal Teas

Due to the large number of attendees expected at this event, the SDIPLA is again requesting Pre-Registration and Pre-Payment. To reserve your

place, fill out the following application, indicate your meal choice, and send it

WITH YOUR CHECK MADE

PAYABLE TO 'SDIPLA' to:

Mark D. Wiczorek Secretary, SDIPLA c/o Innercool Therapies, Inc. 3931 Sorrento Valley Blvd. San Diego, CA 92121 Fax (443) 238-2678 Email markw@innercool.com

Reminders

- Please mail, fax, or email your reservation to Mark Wiczorek at the address indicated for receipt by July 22, 2002. Reservation deadlines are dictated by the hotel and not by the SDIPLA. This program has been approved for MCLE credit by the State Bar of California in the amount of one unit.

\$35.00 / SDIPLA members

\$40.00 / Non-Members

Please fill out a separate form for each attendee.

Name:

Firm/Company:

Telephone Number: () Member of SDIPLA? (circle one): Yes / No

E-mail:

Check Number# Amount of check:\$

Dinner Choice

- Salmon Chicken Pasta

Including Dues Renewal Payment? If so, indicate:

Check Number# Amount of check:\$

Robert Gunther, (continued from page 1)

Recent case representations include:

- Wang Laboratories, Inc. v. America Online, Inc. - successfully represented AOL in a patent infringement case brought by Wang in the Rocket Docket (E.D. Va.). The district court granted AOL's motion for summary judgment of non-infringement of a patent which Wang claimed to represent the invention of the internet browser. This decision was affirmed by the Court of Appeals for the Federal Circuit. Wang had sought over \$300 million in damages.
- - DoubleClick v. Sabela Media – represent defendant Sabela Media (a subsidiary of 24/7 Media) in patent infringement case recently brought by DoubleClick. The patent at issue relates to ad serving on the Internet. The case is pending in the Southern District of New York.
- - General Electric Co. v. Nintendo Co., Ltd. - successfully represented Nintendo in a patent infringement case brought by GE over three RCA patents. GE claimed that the patents, which related to various aspects of television technology, covered Nintendo's highly successful video game products. The district court granted Nintendo's motion for summary judgment of non-infringement on all three patents. This decision was affirmed by the Court of Appeals for the Federal Circuit.
- - Discovision Associates v. Disc Manufacturing, Inc. - represented defendant DMI in infringement litigation filed by Discovision, a company which licenses optical disc-related patents. Discovision sued DMI for infringement of five patents involving 18 separate claims. Following a ten-day bench trial, the district court ruled in DMI's favor on all but two claims of one patent. The case then settled on favorable terms.
- - Quickturn v. Mentor Graphics – represent Mentor Graphics in petition before the International Trade Commission seeking an advisory opinion that remote access to Mentor hardware emulators located outside the U.S. is beyond the territorial jurisdiction of the U.S. Patent Laws. - Forest Laboratories and ONY, Inc. v. Tokyo Tanabe Co. et al. - represent Tokyo Tanabe, a Japanese pharmaceutical firm which is the owner of two biotechnology patents, in infringement litigation against competing pharmaceutical companies based in the U.S.
- - Enzo Biochem v. Chugai Pharmaceutical Co. et al. - represent Chugai in defending claims of infringement of a patent for the use of genetic probes for detecting diseases.

Mr. Gunther has published a number of articles in the area of intellectual property law, including:

- "Interactive CD-ROM Tutorials in Patent Cases: Tools of Teaching and Persuasion" in August 30, 1999 New York Law Journal. - "Tokyo District Court Renders Largest Ever Patent Damages in Japan" in July 26, 1999 New York Law Journal. - "Japan Experiments with Patent Doctrine: Despite Risks, Japanese Courts are now Applying the Doctrine of Equivalents" in September/October 1996 IP Worldwide. - "Protecting the Connection: For Software Interfaces, Patents May Offer Greater Protection than Copyrights", in April 8, 1996 Legal Times. - "Determination of Equivalency: Issue of Law or Fact" in December 4, 1995 New York Law Journal.

2002 – 2003 Elections

- The annual elections for the SDIPLA Board of Directors will be held at the July 25, 2002 meeting. All SDIPLA members are eligible and requested to vote in person or by proxy.
- **All members are encouraged to attend the July 25, 2002, meeting. If you cannot attend, please vote by sending the attached proxy to the SDIPLA Secretary. Please be aware that, to be valid and useable, the proxy must be actually received by the Secretary (Mark Wieczorek, Innercool Therapies, 3931 Sorrento Valley Blvd., San Diego, CA 92121; markw@innercool.com; fax (443) 238-2678 prior to the July 25, 2002 meeting.**

- The following candidates are proposed:

For President:	Richard Kim
For Vice President:	Mark Wieczorek
For Secretary:	Vicki Norton
For Treasurer:	Kent Walker

- Richard Kim of Morrison & Foerster is the current Vice-President of SDIPLA, having served as the Vice-President, Secretary and Treasurer of the organization from February 2000 to the present.
- Mark Wieczorek of Innercool Therapies is the current Secretary of SDIPLA, having served as the Secretary and Treasurer of the organization from September 2000 to the present.
- Vicki Norton of Brobeck Phleger & Harrison is the current Treasurer of SDIPLA and has served from September 2001 to the present.
- Kent Walker of Cooley Godward has been nominated to run for Treasurer of SDIPLA.

Additional nominations may be offered at the meeting. Members may nominate themselves.

A member who has voted by proxy, but who then attends the meeting may, if he or she wishes, revoke the proxy and vote in person. Please contact Mark Wieczorek at the beginning of the meeting if you wish to revoke your proxy vote.

PROXY BALLOT

As a Member, I hereby appoint Sam Talpalatsky, President, as my proxy, to cast my vote concerning the 2002 annual election of the following candidates:

For President:	Richard Kim
For Vice President:	Mark Wieczorek
For Secretary:	Vicki Norton
For Treasurer:	Kent Walker

I direct the President to cast my vote for the election of the above slate of candidates **except that** I direct the President to cast my vote for the election of the following write-in candidate(s) for the position(s) indicated instead of the above candidate(s):

For President:	_____
For Vice President:	_____
For Secretary:	_____
For Treasurer:	_____

Member's signature

Member's printed or typed name

July _____, 2002