



SDIPLA News

**SDIPLA APRIL 24, 2008, 6:00 P.M. DINNER MEETING
FEATURING ROBERT VIGIL, PH.D. AND KARA GORSKI, PH.D.
D.C. OFFICE OF ANALYSIS GROUP
“IP DAMAGES AND INJUNCTIONS”
MARRIOTT DEL MAR**

Dr. Vigil and Dr. Gorski will discuss intellectual property damages and injunctions.

Dr. Vigil is vice president at the D.C. office of Analysis Group. He specializes in the application of economics and finance to intellectual property, antitrust, and general commercial litigation damages-related matters. His work includes assessment of damages in complex litigation cases, including analyses of lost profits, reasonable royalties, price erosion, and unjust enrichment. His experience spans a wide variety of industries including pharmaceuticals, medical devices, telecommunications, computer hardware and software, and consumer products. He earned a B.A. in Economics, Summa Cum Laude, from Pepperdine University in 1990 and Ph.D. in Economics from the University of Maryland in 1998.

Dr. Gorski is a manager at the D.C. office of Analysis Group. She specializes in the application of microeconomic theory to intellectual property valuation and regulation. She has conducted economic analyses of damages related to patent and copyright infringement, breach of contract and the misappropriation of trade secrets. Her experience spans various industries, including medical devices, semiconductors and telecommunications. Dr. Gorski earned a B.A. in Economics from the University of Kansas and Ph.D. in Economics from the University of Illinois, Urbana-Champaign.

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April 24, 2008 — Marriott Del Mar:

Date/Time/Location: NOTES:

April 24, 2008
6:00 p.m.—8:30 p.m.
Marriott Del Mar
11966 El Camino Real
San Diego, CA 92130

Directions:

From I-5 S to Del Mar Heights Rd.;
Turn left, right on El Camino Real, right
side of street
From I-5 N to Carmel Valley Rd.;
Turn right, left on El Camino Real, left
side of street

SDIPLA Board of Directors

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Internet Sightings by Jim Hawes (cont. p. 3)

This column highlights some of the more notable recent internet notices, newsletters and blogs dealing with IP prosecution issues. For more info go to the site cited. The sites mentioned are only the ones with notable stuff this last review period. If your favorite site isn't here, or if you'd like a full listing of the sites reviewed, or the complete column emailed to you shortly after the first of the month, email Jim at oneje-hawes@aol.com.

Hal Wegner's newsletter – the best of a lot of great stuff -
hwegner@foley.com –

- The 3/6/08 issue discusses the Marandola CAFC decision dismissing an appeal filed three days late, pointing out that jurisdictional rules lack equitable exceptions.
- The 3/7/08 offering reports the Pfizer CAFC decision holding that a restriction requirement only insulates from double patenting a downstream divisional application, not a CIP application.
- The 3/18/08 issue discusses the PTO's strongly supported "patent quality submissions" as part of the proposed patent law reforms. Such submissions would require applicants to conduct a thorough pre-filing search and include both its results and an analysis showing the patentability of each claim. In other words, the PTO now wants applicants to do the examiner's work.
- The 3/28/08 newsletter discusses the three European IP news sources available via the internet. A second message offers Hal's solutions to the serious PTO management challenges.
- The 3/29/08 issue discusses both the Aristocrat CAFC affirmance (means clauses require specific support in the spec) and the Agrizap ruling based on KSR obviousness concepts.

The SDIPLA thanks our Sponsors for the monthly meetings:

Knobbe Martens Olson & Bear LLP
www.kmob.com

Townsend and Townsend and Crew LLP
www.townsend.com

(listed alphabetically)

Internet Sightings
by Jim Hawes (cont. p. 6)

Patently-O – a blog written by Prof. Dennis Crouch – patent@gmail.com

- The 3/2/08 blog discusses Dennis' study of District Court judges, their claim constructions, and reversals by the CAFC.
- The 3/12/08 posting comments on litigating in the Banana Republic of East Texas. An interesting place to avoid.
- The 3/14/08 issue reports a survey of over 6K recent patents for term extensions, and finds that 72% of terms extended due to PTO delays, the average extension being 392 days.
- On 3/17/08 Prof. Crouch reported that patent infringement filings per year show a steady increase from about 500 in 1988 to about 4,000 in 2007.
- The 3/18 messages include one reporting that the first to file (race to courthouse) patent system is receiving attention once again, and one concluding from data that in the chemical and biotech fields patent income is greater than patent litigation costs, but not so for all other fields.
- The 3/27/08 blog reported that on winning the Hynix patent case Rambus' shares rose 39% , again showing just how valuable patent rights can be.
- The 3/31/08 offering discusses the Aristocrat CAFC decision (see Hal Wegner's 3/29/08 message) in greater detail.

IP law 360 – a newsletter covering all IP, but focusing mainly on litigation – web address: www.iplaw360.com

- The 3/3/08 guest column discusses the new ND Ca local rules and their impact on patent cases there.
- The 3/5/08 guest column discusses the DDB Tech decision of the CAFC and its impact on employee rights to inventions.
- The 3/19/08 email reports that the PTO has held Motorola's cell phone chirp to not be a trademark.
- The 3/24/08 issue reports that the decade old "Beach Boys" trademark dispute has been resolved amicably.

Daily Dose of IP – a blog by Mark Reichel – www.dailydoseofip.blogspot.com – an ongoing grab-bag of various IP developments, and recent CAFC decisions.

- The 3/10/08 blog announces a new WIPO website offering training in WIPO matters – see www.ip4inno.eu.
- The 3/13/08 posting reports that the PTO will hold an open nanotechnology meeting between examiners and attorneys on 4/22/08 in its Madison building.

Reservation Form for April 24, 2008 Dinner Meeting

APRIL 24, 2008, 6:00 P.M. DINNER MEETING
Featuring Robert Vigil, Ph.D. and KARA GORSKI, PH.D.
D.C. office of Analysis Group
Marriott Del Mar

Thursday
April 24, 2008
Marriott Del Mar

Cocktails 6:00 p.m.
Dinner 6:45 p.m.
Presentation 7:30 p.m.

The Menu
Bibb & baby lettuce salad
Choice of the following entrees:

Deep-Seared Salmon

With potatoes

** OR **

Roasted Chicken

With Vegetables

** OR **

Vegetarian

And

Dessert

Fruit Tart

To reserve your place, please fill out the below registration, and send it **WITH YOUR CHECK MADE PAYABLE TO 'SDIPLA'** to:

Jessica Mitchell
SDIPLA Secretary
Neil, Dymott, Frank, McFall & Trexler
1010 Second Avenue, Suite 2500
San Diego, CA 92101
(619) 238-2255
Fax: (619) 238-1562
jmitchell@neildymott.com

On-line reservation available– go to www.acteva.com and search for SDIPLA or follow the link at www.SDIPLA.org

REMINDERS

- Please mail, fax, or e-mail your reservation to Jessica Mitchell at the address, fax, or e-mail address indicated for receipt **no later than April 21, 2008, 5:00 p.m.**
- The reservation deadline is dictated by the hotel and not by the SDIPLA.

NOTE MEAL PRICES

Member: \$55.00
Non-member: \$65.00

Please fill out a separate form for each attendee.

Registration

Name: _____ E-Mail Address: _____

Firm/Employer: _____

Telephone Number: _____

Member of SDIPLA? (circle one) YES NO

Entrée Choice: _____ Deep-Seared Salmon _____ Grilled Chicken _____ Vegetarian _____



Internet Sightings by Jim Hawes

PTO notices – www.uspto.gov/main/newsandnotices

- The PTO has proposed revising its biological deposit requirements – see 73 Fed. Reg. 9254 (2/20/08)
- A 3/18/08 notice states that the PTO will hold a free “Design Day” conference on April 14.
- On 2/29/08 the PTO published a proposed rule change that would do away with the various certificate of mailings in favor of eTEAS – see 73 Fed.Reg. 11079 (2/29/08).
- The PTO announced on 3/26/08 that it has released various enhancements to private PAIR 7.2.

WIPO notices – about the Madrid system posted at www.wipo.int/madrid/en/notices

- The WIOP publishes a magazine in both online and print versions. See its website to subscribe.
- WIPO will co-host with the Kellogg School of Mgmt. (UofC) an IP management program on June 9-12. See the 3/26 Daily Dose (above).

For more information about any of the patent topics mentioned consult *Patent Application Practice* published by West and updated twice a year.

SDIPLA 2008 BOARD ELECTION

- Active members of the SDIPLA who wish to run for Treasurer, please submit your nominations with statement of candidacy to Jessica Mitchell at jmitchell@neildymott.com.
- Nominations for Treasurer is due on or before May 15, 2008.
- Election for Treasurer will be held at the last dinner meeting, May 29, 2008.
- Proxy vote form will be available in the May 2008 newsletter.



Employment Situation Available (cont. p. 7)

Patent Agent/ Attorney Req #463

Innovation is in our genes.

Illumina (NASDAQ: ILMN) develops next-generation tools for large-scale analysis of genetic variation and function. The results will pave the way for personalized medicine, a key goal of genomics and proteomics – the underpinnings of tomorrow's medicine. With thought-provoking work and people inspired to reach new levels of creativity, the potential to help mankind is the great motivator for the staff at Illumina. We thrive on an environment that is intellectually stimulating, team-oriented and responsive. We enjoy cutting-edge technology, excellent training, industry-leading benefits, and a strong belief in ethical behavior – and each other. Oh, and fun. Lots of it.

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making sense out of life

Job Summary:

This individual will work in a team environment to prepare and prosecute company patent applications, evaluate intellectual property landscapes around research projects, and assist with intellectual property aspects of licensing and research agreements.

Job duties include but are not limited to:

- Identify and evaluate patentable inventions emerging from dynamic, multi-disciplined research projects.
- Prepare and prosecute patent applications in-house.
- Assist with evaluation of intellectual property landscapes and freedom to operate analyses.
- Manage outside counsel involved in patent prosecution and freedom to operate analyses.
- Assist with intellectual property aspects of licensing and research agreements.

Employment Situation Available (cont.)



Education and Experience:

- Strong background in at least one of the following technical areas: biochemistry, molecular biology, bioinformatics, mechanical engineering, electrical engineering or chemical engineering; and must be comfortable interfacing with technical personal while performing job duties related to all of these technical areas.
- Strong knowledge of all aspects of patent law.
- Minimum of 3 years experience as a registered patent agent.
- Law firm experience preferred.
- PhD in relevant technical area preferred.

To apply, please go to the careers page on our website via the link posted below and click on “search jobs”

www.illumina.com/careers

EOE

About Illumina:

At Illumina, its goal is to apply innovative technologies and revolutionary assays to the analysis of genetic variation and function, making studies possible that were not even possible just a few years ago.

Illumina has developed a comprehensive line of products that address the scale of experimentation and the breadth of functional analysis required to achieve the goals of molecular medicine. Its offering includes leading-edge solutions for:

- SNP genotyping
- Copy number variation
- DNA methylation studies
- Gene expression profiling
- Low-multiplex analysis of DNA, RNA, & protein



Announcement**The Association Internationale pour la Protection de la Propriete Intellectuelle (AIPPI)**

- The 41st World Intellectual Property Congress will be held in Boston from Sept. 6 - 11, 2008.
- This is the first time in 33 years that the AIPPI is having the Congress in the US.
- The Congress will address many issues concerning harmonization of intellectual property laws, cross border enforcement of Intellectual Property rights, and fundamental issues of intellectual property protection.
- The Congress will be the largest meeting of general intellectual property lawyers in the world including outside intellectual property counsel and corporate intellectual property counsel from around the world such as Microsoft, Rohm & Haas, Yahoo!, General Electric, SAP, and Sun Microsystems.

Contact Information

Philip Swain
Foley Hoag LLP Boston, MA
Chair, AIPPI Boston 2008 Organizing Committee

Clark Lackert
King & Spalding LLP New York, NY
President, AIPPI United States Group

Additional Information

Detailed information will be posted on www.sdipia.com.

MEMBERSHIP/RENEWAL APPLICATION

Name: _____

E-Mail Address: _____

(required to receive newsletters)

Firm/Employer: _____

Mailing Address: _____

City/State/Zip: _____

Telephone Number: _____

Send check or money order **payable to SDIPLA Dues to:** Jessica S. Mitchell

Attorney Member Dues: \$50/year SDIPLA Secretary

Non-Attorney/Retired Attorney Dues: \$25/year Neil Dymott Frank McFall & Trexler, PC
(e.g. law students, paralegals, patent agents, retired attorneys, etc.) 1010 Second Ave, Suite 2500
San Diego, CA 92101

Notes Regarding Your Membership

- E-Mailing of newsletters and notices has replaced regular mailing.
- **On-line registration now available– visit www.SDIPLA.org.**
- SDIPLA would like to increase active membership, including significantly in-house practitioners.
- SDIPLA welcomes any suggestions to make the renewal process more efficient.
- SDIPLA welcomes any suggestions to increase membership.
- If you have suggestions, please do not hesitate to contact one of the officers.

Next SDIPLA Dinner Meeting—District Judges Panel, May 29, 2008

Judge Brewster, Judge Huff, and Judge Sabraw will speak on the following:

- the impact of *KSR* to patent litigation;
- the impact of the local rules for patent cases in San Diego;
- and other topics.

Venue: To be announced shortly.

Visit SDIPLA on the Web at:
www.sdipla.org

ARTICLES: If you have an article for the newsletter, please send it to Jessica.
DUES: To pay or renew your **membership dues:** Please use the form on page 9, and send form via mail or fax to Jessica Mitchell. - online registration now available - visit www.SDIPLA.org.

Date	Event	Speaker/Topic
April 24, 2008	Dinner Meeting at Marriott Del Mar	Robert Vigil, Ph.D. and Kara Gorski, Ph.D. will speak on IP damages and injunctions.
May 29, 2008	Dinner Meeting and Board Election	District Judges Brewster, Huff, and Sabraw will speak on the impact of <i>KSR</i> to patent litigation, the impact of the local patent rules to cases in San Diego, and other topics.