



SDIPLA News

THE 2010 USPTO ROADSHOW SYMPOSIUM

February 26, 2010

Registration: 8:00 a.m. to 8:45 a.m.

Presentation: 8:45 a.m. to 5:00 p.m.

MCLE Credit 5.0

Amylin Pharmaceuticals, Inc.
9360 Towne Centre Drive
San Diego, CA 92121

San Diego Intellectual Property Law Association

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Date/Time/Location:

February 26, 2010
8:00 a.m. —5:00 p.m.
Amylin Pharmaceuticals, Inc.
9360 Towne Centre Drive
San Diego, CA 92121

Directions:

I-5 to 805 to
La Jolla Village Drive

(Corner of Towne Centre Drive and
Executive Drive)

The largest portion of the Building and
the parking lot faces Executive Drive

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If your firm or company is interested in sponsoring a meeting, please contact Ken Jenkins:
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The SDIPLA would like to thank our Sponsors for the monthly meetings:

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(listed alphabetically)

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Friday, February 26, 2010 Amylin Pharmaceuticals

- 8:00 - 8:45 Registration/Continental Breakfast
 8:45 - 9:00 Introduction to Symposium
 9:00 - 9:15 TC1600 Management Update
 9:15 - 10:00 Count System/RCE Changes
 10:00 - 10:15 Coffee Break
 10:15 - 11:00 Compact Prosecution/Interview Practice
 11:00 - 12:00 Panel Discussion
*Improving Patent Prosecution
& Examination*
 12:00 - 1:30 Networking Lunch on-site
 1:30 - 2:15 35 USC 101: *Bilski* Update
 2:15 - 3:00 35 USC 103: *KSR* Update
 3:00 - 3:15 Coffee Break
 3:15 - 4:15 Panel Discussion
*Current Issues In Patent Law—Patent
Reform Legislation, IP Case Law
Developments & Impact on Industry/
Local Economy*
 4:15 - Open Meet & Greet
 Wine/Beer & Hors d'oeuvres Reception
 On Site

Registration and payment is due
no later than February 16, 2010

Reserve your space online at:

[http://acteva.com/booking.cfm?
binid=1&bevalD=197778](http://acteva.com/booking.cfm?binid=1&bevalD=197778)

Or register below and mail
with your check made payable to 'SDIPLA' to:

Ken Jenkins, SDIPLA Secretary
Townsend and Townsend and Crew LLP
12730 High Bluff Drive, Suite 400
San Diego, CA 92130

REGISTRATION FEE

SDIPLA members:	\$110.00
Non-members	\$130.00
Law Students/Post Docs	\$ 70.00

Name: _____

E-Mail Address: _____

Firm/Employer: _____

Address: _____

Telephone Number: _____

Member of SDIPLA? (circle one) YES NO

(Registration Must be Received by February 18, 2010)

(plus Acteva fee)

INTERNET SIGHTINGS

By: Jim Hawes

This column highlights some of the more notable recent internet notices, newsletters and blogs dealing with IP prosecution issues. The full IS column is also available at internetsightings.blogspot.com.

Hal Wegner's newsletter – a lot of great stuff – Contact: hwegner@foley.com

- Hal's top ten list of cases on appeal, and his longer postings, are now available at GrayonClaims.com/hal. Check it out.
- The 1/6/10 email discusses the *Restaurant Tech*. CAFC decision holding that a “means” element in a claim, to be infringed, must disclose in the asserted patent the defendant's “means” element.
- Two 1/7/10 blogs report and discuss the *Weyth* CAFC decision on patent term adjustment. It's too complex to summarize here.
- The 1/8/10 email discusses marking a product with multiple patent numbers. A related article is posted at GrayonClaims.com.
- In the 1/11/10 blog Hal looks at the tea leaves and concludes that passage of a comprehensive patent reform bill this spring is “unrealistic.”
- The 1/18/10 message reports that, to achieve full funding, PTO Director Kappos has replaced former CFO Hudson with Karen Strohecker of the Operations office. Hopefully she will succeed.
- The 1/20/10 email discusses appeals to the BPAI. Both filings and time to decide are projected to rise “off the charts” this year.
- The 1/23/10 blog discusses a new PTO internal policy of rejecting under §101 method claims in mechanical cases with allowed claims, and why it is wrong.
- The 1/25/10 post reports the *Boehringer* and *Therasense* CAFC decisions. In *B.*, a terminal disclaimer filed after expiration of the relevant patent did not cure an obviousness-type double patenting problem. In *T.*, inequitable conduct was found for not informing the PTO of arguments presented to the EPO.
- Hal's 1/27/10 post continues a discussion of an applicant's right to have examined generic claims covering an elected species, and the PTO's denial of that right.

INTERNET SIGHTINGS by Jim Hawes – continued

- The 1/26/10 email discusses the PTO's boilerplate "reversible error" *Kahn* standard applied to examiner rejections and why it is wrong. The 1/29/10 post cites the recent *Ibarra* BPAI decision as holding that the reversible error must be "beyond quibbling."

Patently-O – a blog written by Dennis Crouch – www.patentlyo.com.

- The 1/1/10 blog reports an IP study of 42 vegetable varieties, finding that less than 4 percent were protected under the PVPA or a plant patent.
- The 1/4/10 email discusses the role of the SPEs at the PTO. If you'd like to comment on them, read this posting first.
- The 1/7/09 blog both discusses the *Rest. Tech.* decision (See Hal above) and the use of means plus function limitations in US patents. Dennis found, among many other things, that about 15% of recently issued patents had MPF. Patents claiming a French priority had 40%.
- In the 1/8/10 email Dennis does a good job of summarizing the *Wyeth* CAFC decision on patent term adjustment.
- The 1/11/10 message reports a study showing that now design patents are issuing an average of about 14 months after filing.
- The 1/13/10 blog discusses patent term adjustments per the *Wyeth* CAFC decision, with examples and statistics. Today about 80% of issuing patents include some term adjustment Dennis finds.
- The 1/18/10 blog reports that summer IP jobs are scarce for law students, and recommends summer courses instead. It lists schools and IP summer classes being offered.
- The 1/19/10 message reports a study of recent US design patents. Over 80% were NOT rejected for any reason. Amazing.
- The 1/22/10 email summarizes the current PTO funding problem with receipts of \$2B plus and authorized expenditures of only \$1.887B.
- The 1/25/10 post states that 40% of BPAI briefs are defective, and lists some common reasons.
- The 1/29/10 blog reports that the PTO has adopted a free interim procedure for recalculating patent term extensions per *Wyeth*. Use new PTO form SB 131.

INTERNET SIGHTINGS by Jim Hawes - continued

Carl Oppedahl – emails of PCT practice matters: oppedahl.com/pct.

- The 1/1/10 email reminded recipients that PCT fees went up today.
- Another 1/1/10 email reports that new search fees are for KR, \$1092, for AU, \$1397, and for EP, \$2515. The US fee is still \$2080.
- A third 1/1/10 email reports that he has been waiting for a US national stage Filing Receipt in one of his cases for seventeen months.
- The 1/9/10 post discusses the use of EFS-web to file PCT applications.
- The 1/21/10 message reports that WIPO has opened a new PCT document upload system to all IB filers, and gives web addresses and some tips.
- The 1/23/10 post discusses fixing a priority filing date in a PCT case.
- A series of 1/23/10 posts discuss correcting misnumbered claims in a PCT case.

Gray on Claims – a claim construction and patent law blog – grayonclaims.com.

- The 1/8/10 blog discusses the *Weyth* CAFC patent term adjustment decision, and cites a timely “PTA Strategies” paper.
- The 1/22/10 email cites a just published, mainly procedural CAFC Patent Damages Handbook for use by all.

Patent Docs – focusing on biotech and pharma patent issues – see patentdocs.org.

- A series of 1/10 emails discuss efforts to change the 12 year data exclusivity provisions of the current Health Care bills.

TTABlog – a blog written by John Welch – www.TTABlog.com

- The 1/5/10 blog reports the *Promgirl* decision holding that in *inter parte* proceedings the Board takes the discovery conference requirement very seriously, and will participate if needed.
- The 1/6/10 email lists the 17 TTAB judges with a short bio of each.
- The 1/7/10 offering reports an oral argument before the CAFC in the *Mary Queen* case about the registrability of a religious cloak. Robes as trademarks? Maybe the world will end in 2012.

INTERNET SIGHTINGS by Jim Hawes – continued

- The 1/11/10 email reports the *Renati* TTAB decision holding that the extreme rareness of a surname warrants its registration here for certain goods.
- The 1/20/10 blog reports that the oldest TTAB pending case was filed on 9/9/82. The most recent paper in it was filed on 1/19/10. Talk about slow! A second blog on 1/20 reports that the PTO has just goosed the parties to move things along. A coincidence?

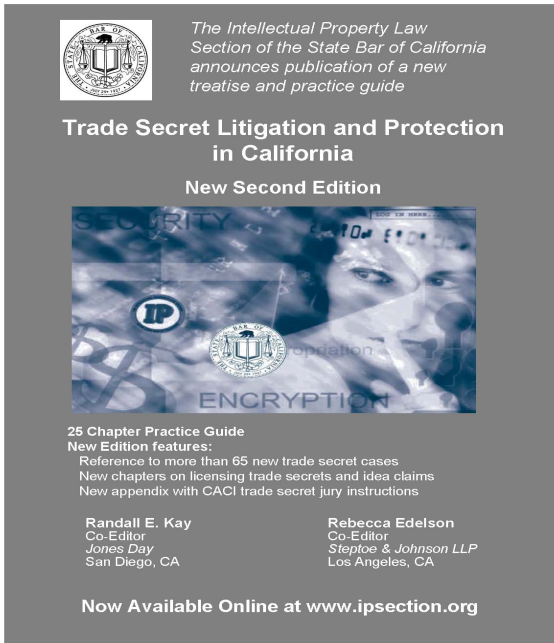
PTO notices – www.uspto.gov/main/newsandnotices

- On 1/12/10 the PTO posted notice that it will change its patent term adjustment calculations to conform to the *Weyth* CAFC decision.

Other Stuff –

- The PLI will hold its 4th annual patent institute 3/1-2/10 in NYC and 3/22-23/10 in SF. Contact PLI for info.
- C5 (UK) will hold the 18th Biotech Patenting Conference on 3/17-18 in Munich.
- The ABA IP Section will hold the 25th IP Law conference on 4/7-10/10 in Arlington, VA.
- A recent report said that there are now about 40,000 practicing patent attorneys in the US and about 10,000 in the EU.
- New rules for the BPAI are in the works at the PTO – it hosted a 3 hour roundtable to discuss them Jan. 20.

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



The Intellectual Property Law
Section of the State Bar of California
announces publication of a new
treatise and practice guide

**Trade Secret Litigation and Protection
in California**
New Second Edition

25 Chapter Practice Guide
New Edition features:
Reference to more than 65 new trade secret cases
New chapters on licensing trade secrets and idea claims
New appendix with CAOI trade secret jury instructions

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All submissions are held in confidence. For confidential discussion and consideration, please contact:

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