

**INTELLECTUAL PROPERTY LAW COMMITTEE
BUSINESS LAW SECTION
THE FLORIDA BAR**

MEETING MINUTES– 2020 Florida Bar Annual Convention
Thursday, June 18, 2020, 11:00 AM – 12:30 PM via ZOOM

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Jake Linford, Professor Academic Chair, Tallahassee	jlinford@law.fsu.edu	850-644-3449

Attendees: In person – none (due to COVID): via Zoom – not available, due to technical issues with Zoom.

I. WELCOME AND INTRODUCTION BY THE CHAIR

II. OLD BUSINESS

A. Adoption of Meeting Minutes. February 6, 2020 2019 Labor Day Retreat Meeting-Adopted by vote

B. 1.5 CLE Credit for Course No. 3857

The Three Big Copyright Cases- Presenter: Stephen Carlisle, Copyright Office, Nova Southeastern University, Ft. Lauderdale, FL, Presented Live on 2/6/20 at the Hyatt Regency, Orlando, FL

III. NEW BUSINESS

A. Introduction of Incoming IP Executive Committee

Chair: Jim Matulis, Matulis Law & Mediation, Tampa, FL

First Vice Chair, Legislation: Michele G. Moss, Johnson Moss, Orlando, FL

Second Vice Chair, CLE: Samuel Lewis, Cozen O'Connor, Miami, FL

Chair of Intellectual Property Symposium: Darren Spielman, Kain Spielman, Fort Lauderdale, FL

Judicial Chair: Mary S. Scriven, U.S. District Judge, Tampa, FL

Academic Chair: Jake Linford, Professor, Florida State University, College of Law, Tallahassee, FL

B. Legislative Update – Mark Stein, Aventura, FL

Not anticipating any offensive legislation for the IP Committee during the upcoming legislative session beginning March 2, 2020.

1. **Trade Secrets** – Jim Matulis, Tampa - If this bill is going to be passed, the IP Committee would advocate adding some language advising entities and individuals contracting with the state of Florida that they may be waiving trade secret protection for their contracts. This bill did not get anywhere during this legislative session but we expect it to return during the next legislative session.

The IP committee (Jim Matulis, Jaqueline Tadros and Joseph Englander) prepared a white paper identifying several concerns with the proposed scheme and proposed amendments, discussed below under section 2.2.

2. **IP Committee Legislative Positions**-Jim Matulis, Tampa. The Legislative Committee asked the IP Committee to review its current legislative positions for 2018-2020 and determine which legislative possessions the IP Committee would continue and which positions could be dropped. The following positions were discussed:

2018-2020 Intellectual Property/Computer Law Legislative Positions

1. Opposes changes that weaken contracts governed under current franchise laws and expand claims available under Florida's Unfair and Deceptive Trade Practices Act- *The IP Committee will maintain this position for 2020-2022.*
2. Supports amending pending legislation relating to trade secret information to require Florida state agencies to inform potential bidders, vendors, service providers, contractors and/or others that may engage in business with state agencies that their submission of information to an agency may waive trade secret protection and to further require informed consent by potential bidders, vendors, service providers, contractors and/or others that may engage in business with the state agencies, in order to prevent inadvertent waiver of trade secrets and potential litigation- *The IP Committee will maintain this position for 2020-2022*
3. Supports legislation that defines blockchain technology in such a manner as to encourage innovation in the blockchain space without tying any statutory definition to a specific implementation of the technology.-*The IP Committee will maintain this position for 2020-2022.*
4. Supports ensuring the identification of goods and services in the Revised Model Trademark Act, Ch. 495, Fla. Stat., conforms to Federal law.-The IP Committee will drop this position. *This is no longer necessary due to Dineen Wasylik's*

work in modifying the Revised Model Trademark Act.

3. **BLS Restrictive Covenants 542.335 Task Force Update** - Jim Matulis, Tampa - The Task Force was created to propose revisions to Florida Statute Section 542.335, which is widely viewed as the most one-sided such statute in the country in favor of employers. The task force has now prepared its proposed revisions to the current restrictive covenant statute. Some of the more significant proposed changes include: (1) if the employee makes less than \$60,000 in annual income (to be adjusted annually for inflation), there is a rebuttable presumption that certain restrictive covenants do not apply to that employee; (2) modifying the “substantial relationships” that the court may consider a legitimate business interest to those relationships between the employee (not the employer) and specific customers, patients, referral sources (this is new), and clients; (3) allowing the court to consider any individualized economic hardship on the employee; (4) eliminating the prohibition on the Court that prevents it from construing the covenant narrowly, against the restraint, or against the drafter. The revisions would be applied prospectively only.

C. 11th Annual IP Symposium Update – Samuel Lewis, Miami. The 11th Annual Florida Bar IP Symposium has been moved to October 15-16, 2020 at the Biltmore Hotel in Coral Gables, FL. The IP Symposium was originally scheduled to occur on April 16-17, 2020; but has been re-scheduled as a result of the spread of COVID-19. The dinner keynote speaker on October 15, 2020 will be Kurt Hammerle, NASA. All speakers and panelists have confirmed their availability for the full day program on October 16, 2020. The lunch keynote speaker on October 16, 2020 will be Laura A. Peter, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the U.S. Patent and Trademark Office. There will be several panels, including a Case Study on Preliminary Relief in IP Litigation (A Judicial View). This panel will include The Honorable Mary Scriven, The Honorable Darrin P. Gayles, James Stepan and Jim Matulis.

IV. CLE EVENT

Topic: Insurance Issues Relating to Intellectual Property and Trade Secret Claims (and other Good Stuff ...)

Speakers: James A. Gale, Cozen O’Connor, Miami, FL
Jonathan E. Gale, Cozen O’Connor, Miami, FL
Nick Chmielewski, AON IP Solutions

V. ADJOURNMENT

Next meeting, Business Law Section Labor Day Retreat-Date: TBD