

**IP COMMITTEE MINUTES**  
**March 21, 2013 (4th Annual IP Symposium)**  
**Marriott – West Palm Beach, Florida**

**I. WELCOME AND INTRODUCTION BY THE CO-VICE CHAIRS**

Interim Chair Ury Fischer welcomed everyone to the meeting. Attendees introduced themselves.

In attendance were Andrea Adkins, Vijay Brijbasi, Crystal Broughan, Michael Colitz, Amber Davis, Debra Faulk, Ury Fischer, Charlie Harris, Robert Kain, Jerry Leakey, Jason Miller, Stephen Leahu, Stephen Luther, Kimra Major-Morris, Matt Nelles, Robert Pershes, Woody Pollack, Samantha Poznak, Jerry Schneider, Darren Spielman, Jacqueline Tadros, Dineen Pashoukos Wasyluk.

**II. OLD BUSINESS**

**A. Adoption of Meeting Minutes**

The minutes of the January 10, 2013 committee meeting were approved by voice acclimation. Robert Kain moved, Steve Luther Seconded.

**B. Legislative Update**

(1) New Legislation, Ury Fischer, *Coral Gables*

HB 787 – Bill relating to transmission of nude pictures (“Sexting”). Criminalizing the behavior.

HB 797 – Bill relating to portable electronic devices and the seizure of them. Requires warrant for seizure of electronic memory devices.

SB832 – Powers of Attorney. Amends statutes to make it easier to use electronic copies of documents.

SB834 – Create exemption to public records laws for office of insurance regulation for proprietary business rights issues.

Comment as soon as possible to work on it if we want to take a position. Let Ury or Dineen know if you think we need to comment on any of these bills.

(2) Employee-Hacker Subcommittee-- Robert Kain, *Fort Lauderdale*

Plan to have a draft by June meeting to present to this committee, computer law committee, and business litigation committee. Stephen Luther questioned whether it isn't already covered with trade secrets, fiduciary/employee duties, etc. We discussed the perceived need for civil legislation further.

(3) Presumption Against Ownership of IP for Government entities, Stephen Luther, *Orlando*  
Steve Luther gave a preview of his upcoming symposium talk and explained some of the potential issues facing state entities that own trademarks and other IP. He noted that one of the issues that Florida faces is the argument that if the DOS hasn't been policing, then it's abandoned, arguably. His case on behalf of a state entity is a case pending in the 11th circuit. His client may try to push something through 2014 legislative session, but right now is holding off on making a move to make a statutory provision until the 11th Circuit rules. At least for trademarks, makes sense to flip the presumption of Department of State ownership, from both a consumer protection standpoint and because it can result in revenue to the state. All of the school district attorneys get together to talk about this – licensing the apparel for teams, etc. There are some school districts that do police their marks, though now there is a question as to whether they have the right to do so.

Mike Colitz noted that there has been as similar issue with Tampa International Airport. Had a Federal registration since 1946. Lots of government agencies have registrations. The other side raised the DOS issue. The case eventually settled, but the other side cited Steve Luther's case.

Deb Faulk stated that she faced an issue with clients putting together drivers' ed materials. Went to each department of state to get permission to use it, and DoT.

### **C. Diversity Committee**

There was no report from the diversity committee at this time.

### **D. Intellectual Property Certification, Michael Chesel, *Miami***

Lastest numbers on certification are that there are 129 certified IP attorneys. Of those 129, about half were certified in the first class in 2007. They came up for recertification this year, so the committee has 21 pending applications. Anyone certified in 2008 will have to apply for recertification next year. Forms are already on the bar website, so find the specialty and download the forms.

Recertification form is just as difficult as the initial application. Substantial involvement is 30 percent.

To take the 2014 exam, applications are on the Florida Bar website and are due August 31.

Choke points for recertification are references and not giving enough information.

For the May 9 exam, there are 14 people who have qualified to take the exam. They will be getting their notices this week. An increase from previous years.

If you are certified, can now track your certification credits online as well.

### **III. NEW BUSINESS**

#### **A. Status of Committee Leadership**

Leora unfortunately resigned for health reasons. Let Ury or Dineen know if you are interested in being a Vice Chair.

#### **B. Patent Fee Levels**

Robert Kain warned the group to be sure to read the regulations carefully because the regulations don't match the information on the PTO website. Read the new "micro entity" definition.

### **IV. 5<sup>th</sup> ANNUAL IP SYMPOSIUM**

The Committee tentatively agreed to hold the next Symposium in the Tampa area. Please let Ury or Dineen know if you have an interest in serving on the steering committee.

### **V. ADJOURNMENT**

The meeting was adjourned at 5 p.m. and the Committee members were advised that the next meeting would take place at the Annual Meeting in Boca Raton on June 27, 2013 9-noon.