


New Matter

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Summer 2001

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MIPLA 2000-2001

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- Charles L. Rubow, *President*
- Bradley A. Forrest, *Vice President*
- Phil Goldman, *Secretary*
- Hallie Finucane, *Treasurer*

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The Officers and

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- Timothy A. Czaja
- Denise M. Kettelberger
- Michael K. Ouyang
- Stephen R. Schaefer
- James L. Young

MIPLA 2000-2001 Committees

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Peter S. Dardi

By-Laws Revision

Timothy A. Czaja

Continuing Legal Education

John J. Gresens

Copyright Law

John A. Taft, Barbara J. Grahn

Corporate Practice

Shawn B. Demster

Ethics

Charles L. Rubow

Historian

Thomas Stueber

IP Law Revision

Sten E. Hakanson

IP Licensing

Stephen W. Bauer

International Law

Min Schumann Xu, R. Carl Moy

Nominations

James L. Young

Patent Litigation–ADR–CAFC

Randall T. Skaar

Programs

Jeff Cameron, Glenn Seager

PTO Committee

Mark Goldberg

Publications

Eduardo E. Drake

Public Relations

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Software Protection

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Trademark

James F. Vogeli

Women in IP Law

Dina M. Colling, Alana T. Dekrey

MIPLA MSBA Board of Governors Representative

John L. Gresens

MIPLA NCIPLA Delegate

Denise M. Kettelberger

MIPLA US Bar/EPO Liaison

John Hornickel

MIPLA MSBA House of Delegates Representative

Stephen R. Schaefer

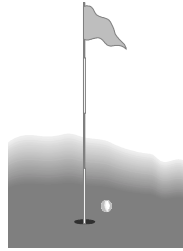
MIPLA MSBA Administrator

Erin Riley

MIPLA Summer 2001 Schedule

July 19, 2001

MIPLA Golf Outing
Majestic Oaks in Ham Lake



2000-2001 President's Letter



May 2001

As MIPLA's 2000/2001 year draws to a close, it is timely to assess performance for the year. I believe it has been a very good year both in terms of service to the community having an interest in innovation, and service to the intellectual property law profession.

To highlight a few activities, the Association again this year provided monetary grants and professional support to the Minnesota Young Inventors Fair. The seed money and support provided during the last several years has now allowed YIF to achieve national recognition, and to begin to make a profit from sale of curriculum manuals created under the grants.

This year the Association continued its support of the Minnesota Inventors Congress, in particular, by providing innovation seminar participants and IP protection information.

Ties with and support of intellectual property law programs at the three local law schools was also strengthened during the year. The number of scholarships awarded was increased to seven, and funding was again provided for Moot Court competition. In addition, the Association sponsored or

participated with the Student Intellectual Property Law Associations in several social and professional events.

The Association also continued its active tradition of providing high quality continuing legal education programs to enhance the professional competence of its members, and social events to cultivate relationships within the profession. In addition, the Association expanded its support of the profession through a grant to Lawyers Concerned for Lawyers.

Finally, the Association continued its liaisons with various national and international IP law organizations and with the Minnesota State Bar Association.

Many Association members whose time was already fully committed have made substantial contributions to Association operations during the year. Without diminishing the very important contributions of others, special thanks are due Dan McDonald and his CAFC Task Force for their efforts in bringing judges of the Federal Circuit to the Twin Cities for an outstanding three-day event.

Tim Czaja is also due special thanks for again this year overseeing arrangements for an extraordinarily successful golf social.

The Association has otherwise had a very productive year, thanks to its active committees. Special credit goes to:

- Program Committee Co-Chairs Jeff Cameron and Glenn Seager for handling the substantial task of planning and making arrangements for this year's varied and successful meeting programs;
- Publications Committee Chair Edwurdo Drake for editing and overseeing publication of New Matter, which this year for the first time has been made available in electronic as well as paper form; and
- CLE Committee Chair John Gresens for planning and arranging for a variety of excellent CLE seminars.
- Special thanks also go to Erin Riley for ably and willingly handling MIPLA's administrative needs at the MSBA.

Finally, my personal thanks go to Vice President/ President Elect Brad Forrest for most capably filling in during my February/March absence. Under Brad's effective leadership and with full support of the membership, 2001/2002 cannot help but be a very productive year for the Association, as it celebrates its sixtieth anniversary.

As you are no doubt aware, an annual meeting of the MIPLA membership and election of officers and representatives for the 2001/2002 Association year is set for the evening of May 22 at the Nicollet Island Inn. The meeting will be preceded by a 9:00 a.m.– 4:00 p.m. CLE Stampede at the Radisson Plaza Hotel. I look forward to seeing many of you at these events.

Sincerely, Charles L. Rubow

Brad Forrest Elected 2001-2002 President



Tremendous opportunities were generated by the membership last year to enhance the knowledge and professionalism of MIPLA members and reach out to the community. The new year is an open book, with the pages yet to be written. New opportunities will again be generated by the membership. Opportunities to expand the membership even

further by fostering better relationships with the area law schools to attract students, to reward authors and inventors, including young inventors, to improve the services provided by MIPLA members, and to get to know more people in the profession.

We have a board that will take advantage of the opportunities and make sure that they are presented to the entire membership. The past years have seen

growth in the outreach of MIPLA to the community, both in terms of donations of dollars and time. I believe it is important to continue this work and expand on it. We need to reach all the members of MIPLA with opportunities involving all aspects of intellectual property law. The energy and ideas of the MIPLA membership are key.

Changes in the copyright, trademark and patent laws have come fast and furious over the last few years. MIPLA has been on the forefront of communicating these changes to the membership to enhance the overall quality of legal services provided by MIPLA members. In the coming year, MIPLA will build on the education provided by facilitating legal education on strategies and client counseling dictated by the changes. We will always strive for a higher level. Please join the members of MIPLA by taking advantage of opportunities to get together and raise our level of service one more notch.

Sincerely, Bradley A. Forrest

Meeting Minutes

MIPLA Board

Thursday, April 5, 2001

Hennepin County Bar Association – Minneapolis

Call to Order

The Board meeting of the Minnesota Intellectual Property Law Association was called to order by President Charles Rubow at 12:20 pm. Attending the meeting were Board Members: Mr. Rubow (President), Brad Forrest (Vice President), Phil Goldman (Secretary), Jim Young (Immed. Past Pres.), Hallie Finucane (Treasurer), and Board member Michael Ouyang.

Previous Meeting Minutes

The Minutes of the meeting of January 11, 2001 were circulated and approved.

Treasurer's Report

Various portions of a recent MIPLA financial report from the accounting firm of Ellingson & Ellingson were distributed and discussed. It was agreed that Mr. Forrest and Ms. Finucane would contact the accountants in order to clarify the relationship between expenses and income for various events, and to discuss a mechanism for more closely correlating and reflecting such matters in the future, perhaps in the form of a separate account for each MIPLA event.

Along these lines, Ms. Finucane provided a draft statement prepared by Erin Riley of the MSBA, detailing the income and expenditures for the PCT event previously co-sponsored by MIPLA and AIPLA. Discussion was had regarding the manner and extent to which profits derived from the PCT event were agreed to be shared equally with AIPLA, and it was agreed that this issue would be reviewed again, upon clarification of the accounting procedures involved.

Agenda items

- (1) With respect to the legislative efforts concerning the taxation of draftsman's drawings, Ms. Finucane reported that final checks to Mr. Grooms and Mr. Muck were being prepared, and it was agreed that Ms. Finucane and Mr. Goldman will coordinate the mailing of the checks.
- (2) Mr. Young agreed that he would ask Mr. Czaja to proceed with finalizing the MSBA service contract.
- (3) Web page upgrade/checklist procedure – the MIPLA web page has been updated in minor ways, but as of yet, it has not undergone major revision in form or substance. Mr. Forrest agreed to contact Eduardo Drake regarding prospects and timing in this regard. There was also discussion as to how best to handle the various MIPLA checklists being prepared (protocols and procedures, committee activities, events, etc.), including the possibility of making such checklists available to members on the web page. Mr. Forrest reported that he had sent out a draft of such checklists, and is expecting to incorporate whatever comments he receives in time to roll them out at the May meeting.
- (4) It was agreed to table discussion regarding the MIPLA coffee mug mementos that John Gresens has developed as gifts to speakers and guests.
- (5) There was discussion regarding the candidacy of Steve Kunin as new Commissioner, and MIPLA's possible role in supporting that candidacy. The related process, as spelled out in the by-laws, includes the need for committee review, followed by approval by the Board, and in turn, the membership. It was agreed to transfer the matter to Mark Goldberg for review by the PTO Committee, and in turn, for possible presentation to the Board and membership.
- (6) There was discussion regarding the upcoming New Matter, and review of the deadlines and process spelled out in the bylaws for announcing

candidates that relate to reporting those candidates by the Nominating Committee, and in turn, publishing the nominees for the membership.

- (7) Mr. Forrest reported that about 30 questionnaires have been returned to date, eliciting input from members regarding committees. They are being collected and tallied by Erin Riley, for presentation to the Board.

Announcements – Calendar of Events

- (1) Mr. Rubow reported that, together with the Student IPLA of Wm. Mitchell College of Law, MIPLA is cosponsoring a discussion on April 11, on the topic of the recent Napster decision. It had

been earlier agreed, by a telephone poll of the Board, that MIPLA will contribute \$300 toward the cost of the event.

- (2) The golf event is scheduled for July 19, and the annual CLE Stampede is scheduled for the same day as the Annual Meeting, May 22.
- (3) Mr. Rubow reported that Cathy McDonald, of the Young Inventors Fair event, has reported that the MIPLA-supported young inventor curriculum continues to be successful, and is now into its second printing.

The meeting was adjourned at 1:32 pm.

Respectfully submitted, Philip M. Goldman

Report From US-JPO Council

The US-JPO Liaison Council provides the US patent bar with the opportunity to interact directly with the JPO on issues of concern to US applicants for patents in Japan. The next meeting with the JPO is scheduled to take place in November in Tokyo.

The list of topics for discussion that are being considered on our side follows.

1. Filing PCT Japanese national stage applications in English, followed by translation later. Our impression is that the JPO sees some merit in this, but may be holding back to keep it available as a concession in the next round of negotiations with the US.
2. Providing oral proceedings in all inter partes matters at the JPO.
3. Allowing filing and prosecution of Japanese applications in English, with translation at the end. Apparently JPO conducts searches for other countries in English and thus this might not be too

burdensome for the JPO examining corps. This probably is more of a long term item.

4. Clarifying JPO standards for business method patents, particularly whether the rule against patenting laws of nature is applied element by element (so that all steps must be computer-driven), and the appropriate form for claiming business methods.
5. Establishing a grace period for claiming priority when filing in Japan.
6. Establishing procedures for reopening prosecution after a final rejection.
7. Reviewing compatibility of US and Japanese electronic filing systems.

I will be glad to bring any additional issues from our members to the attention of the Council for consideration. The next meeting of the Council is during the AIPLA meeting next month.

With best regards, Doug Mueller

In Memoriam

Joe Kastelic

September 26, 1964 – November 14, 2000

Joe Kastelic was born and grew up in the Slovenian community on the south side of Chicago. He was raised with his five brothers and sisters in a household where Slovenian was the first language and English the second. Joe took great pride in his ethnic background.

He graduated from the University of Illinois in 1986 with a degree in Aeronautical and Astronautical Engineering, after which he went to work for Boeing Corp. in Seattle. Joe had great stories to tell of his days as a flight test engineer at Boeing, where he was involved, among other things, in the flight testing and approval of the Boeing 767 and the 747-400. The stories sounded very dangerous and exciting to us “non-aviators,” but Joe assured us that the vast majority of it was very safe and often routine. Joe also had a private pilot’s license, and spent a fair amount of time during those years flying around the skies of Seattle.

Joe left Boeing in 1989 and went back to the University of Illinois for law school. He joined Merchant & Gould in Minneapolis, first as a law clerk in 1991, then as an associate in 1992, and finally as a partner in 2000. Joe was a talented, dedicated, and hard-working patent lawyer. He was one of the few lawyers at Merchant & Gould who, even after eight years at the law firm, continued to work both on patent prosecution, obtaining patents for clients, and on patent litigation. To all of his work, he brought his unique combination of a creative mind, focus, and an attention to detail, that resulted in the highest quality work product. Both his clients and his co-workers considered him a pleasure to work with.

One of Joe’s great passions was golf. He applied the same focus that he brought to the practice of law to his golf game. He did not have a lot of natural talent for golf, and would never be accused of having a “pretty” golf swing. But he got the most out of his golf swing and had a knack for finding a way to get the ball in the hole.

His greatest passion, however, was his family. He married Georgie Danehower in 1987. They had two girls together: Katie, who is now seven, and Anna, who is four. Joe sacrificed much, both in his professional life and in his social life, so that he could spend more time with Georgie and his girls, and he was happy to do so.

Joe took his own life on November 24, 2000, the day after Thanksgiving. For those of us who knew Joe well, it is hard to understand the sudden mental illness that drove this happy and loving man, who had so much to live for, to such an act. The best that we can do now is remember not how Joe died, but how Joe lived.

J. Derek Vandenburg

In Memoriam

Chad A. Klingbeil

December 5, 1958 - April 13, 2000

Chad A. Klingbeil was born in 1958 in south Minneapolis, where he attended grade school at Christ the King and high school at Benilde - St. Margaret's. Chad graduated from the University of Notre Dame in 1981 with a B.S. in Mechanical Engineering and a B.A. in Economics. He received his Juris Doctor from William Mitchell College of Law in 1985. While attending law school, he also worked as an industrial engineer in manufacturing process development for a computer component manufacturing joint venture.

After graduation from law school, Chad began his career as an intellectual property lawyer in the Twin Cities. He worked for one year with the firm of Sturm & Baker, followed by eleven years with Moore & Hansen and two years with Oppenheimer Wolff & Donnelly. He was a welcome addition to the intellectual property department at Fredrikson & Byron in February 2000, where he died at his desk of a sudden heart attack.

Chad was an active member of the Minnesota Intellectual Property Law Association, including the Computer Law Committee, the Copyright Law Committee (which he chaired from 1993-1994) and the Public Relations Committee (which he chaired from 1994-1995).

Chad loved music. He was a member of the Glee Club at Notre Dame, and was honored at his funeral with a performance by several Glee Club alumni. He performed with the Dale Warland Symphonic Chorus from 1988-1992, including performances of Boris Godunov and Beethoven's Ninth Symphony with the Minnesota Orchestra. He was also very active in church activities at Christ the King, where in addition to singing in the choir and as cantor, he served on the Parish Pastoral Council and the parish Long Range Planning Committee. The combination of his love of music and parish involvement resulted in his meeting and, in 1997, marrying Moya McGynn, director of the church's choir and liturgical planning.

Chad also loved computers and cars, the faster the better. While working as an attorney at Moore & Hansen, he also managed the firm's computer system design, installation and maintenance. The screen-saver on his computer was usually a photo of his latest BMW, which he loved to take care of and drive (as fast as conditions allowed).

Chad is survived by his wife, Moya McGynn, her son Patrick, and his parents, Art and Bette Klingbeil.

Hamline University School of Law Thanks MIPLA for Scholarships

Second-year student Lee Pulju and third-year student Megan Blazina received MIPLA scholarships for this academic year. Ms. Pulju is completing an IP Concentration. She passed the Patent Bar Exam last October and has received provisional recognition before the United States Patent and Trademark Office. She also wrote her Hamline Law Review article on the constitutionality of Section 2(a) of the Lanham Act. Ms. Blazina is a member of the Hamline Law Review and Co-President of Hamline's ABA/LSD chapter. She has taken the Intellectual Property and Trademarks courses, is currently enrolled in the Arts and Entertainment course, and intends to limit her employment search to firms with IP practices.

A third IP scholarship awarded at Hamline University School of Law is the Schwegman, Lundberg, Woessner & Kluth Scholarship in Intellectual Property. Hamline has awarded this Scholarship to second year student Tricia Olson for the 2000-2001 academic year and will award another Schwegman Scholarship for the 2001-2002 academic year in the fall. Ms. Olson is completing an IP Concentration, has written on different IP Internet issues for her student note and in an independent study, and will be Articles Editor next year on the Hamline Law Review. Thank you to the membership of MIPLA and to the firm of Schwegman, Lundberg, Woessner & Kluth for their aid to the students of Hamline.

Hamline also thanks the adjunct professors, team coaches, and mentors who have spent considerable time helping students with regard to Intellectual Property subject matter. A special thanks to Sri Sankaran, John Gresens, Brian Batzli, Paul Dietz, and Ann Dunn-

William Mitchell Scholarship Winners

The winners of the MIPLA scholarship for Intellectual Property are Jennifer D. Henderson who is also Executive Editor of the William Mitchell Law Review, and Mike A. Essien, a staff member of the William Mitchell Law Review.

Wessberg who have each taught several classes or moot court teams over the past few years. They have provided high quality classes for many students and have provided them with invaluable information concerning the field of Intellectual Property.

We hope that they and others will continue to give back to our local law schools by providing their knowledge, enthusiasm, and experience. ■

Giles Rich Moot Court Team Finishes Fifth in the South Regional

Hamline's Moot Court Team, consisting of Huong Nguyen and Micheal Ortner, placed second (Appellant) and fourth (Appellee) in the brief writing competition and was seeded third entering the oral rounds. However, the team had a heartbreaking loss in the first round to one of the teams tying for best oral advocates and another tough loss in the third round, beating the other best oralist team in the oral argument, but losing on brief score for a total score that separated the two teams by less than three points. Hamline would like to thank the MIPLA membership for supporting the Hamline Giles Rich Moot Court Team and the efforts of these talented students. We would also like to thank MIPLA members Paul Dietz and Jeff Cameron for coaching this year's team. ■

Patent Litigation – ADR – CAFC Report

The committee is in the process of gathering local rules governing patent litigation cases from other districts. All local rule information gathered will then be considered, and the committee will decide whether a local rule for patent litigation in this district will or will not be proposed. The committee hoped to know if it has a patent litigation local rule to recommend by June 1.

WIPLA at Work



Dianne Plunkett Latham (left) and Yen Tong-Florczak attend a WIPLA "Random Lunch Group" at W.A. Frost on 12-1-0



Alana Bergman introduces speaker Beth Reiskytl at the 12-6-00 WIPLA meeting.

All MIPLA members are encouraged to submit articles pertaining to intellectual property law issues for publication in *New Matter*. Please send your articles to Eduardo Drake by e-mail, edrake@slwk.com, or by conventional mail to Schwegman, Lundberg, Woessner, and Kluth P.A., 121 S. Eighth Street, Suite 1600, Minneapolis MN 55402. Submissions in electronic format (e.g. on a diskette or by e-mail) are preferred.



MIPLA Committees

They exist to serve you . . . but they don't exist without you.

A MIPLA committee is created whenever MIPLA members have enough interest in a particular IP subject matter or procedural area. For example, the Women in Intellectual Property Law Committee didn't exist five years ago and today it's one of our most active groups. Last year, our Patent and Trademark Office Committee became very active in response to a proposed USPTO Rule change. All of our current committees have volunteer chairs except for the Small Business Committee. The Board will disband this committee if no one steps forward to chair it.

If you would like to chair our Small Business Committee or propose the formation of a new committee, give me a call.

Brad Forrest
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**Visit the MIPLA
Home Page –**

www2.mnbar.org/mipla

The MIPLA web site includes:

- MIPLA Schedule of Events
- Jury Instructions
- Committee Chair Names
- Committee Chair Reports
- Hot Links to Other IP Web Sites
- Coming Soon: MIPLA *New Matter*



Make it a BOOKMARK today!

Send your comments about the MIPLA web site to Eduardo Drake, edrake@slwk.com

MIPLA Social at the Walker on April 26, 2000

Special thanks to Dianne Plunkett Latham for graciously contributing these photos for use in New Matter.



Simone French & Mike Atlass



Warren Woessner, Dianne Plunkett Latham, Charles Lemaire, and Dan Latham



Brian Tuft (left) and Brad Forrest



Jane Arrett & Mystery Man



Scott Vidas and Mystery Woman



Eduardo and Teri Drake

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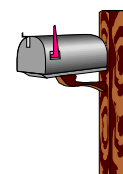
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MIPLA 2001-2002 Committee/Officer Interest Questionnaire

For the 2001-2002 MIPLA year (July 1, 2001 to June 30, 2002), your interest is solicited in the following committees and offices. If you are listed in the 2000-2001 roster as a member of any of these committees, you need not repeat your interest (all those who are currently on a committee will be continued as a committee member unless you indicate below that you wish to discontinue membership on that committee). However, please take a moment to consult your MIPLA directory and determine whether you still have a genuine interest in the committees you've joined. If you joined long ago and have not been active, then it may be time to discontinue your involvement. Please check the appropriate box if you would be willing to chair or want to join a committee, or discontinue your membership on a committee.

	Chair	Join	Discontinue
Biotechnology/Chemical Law	_____	_____	_____
By-Laws Revision	_____	_____	_____
Continuing Legal Education	_____	_____	_____
Copyright Law	_____	_____	_____
Corporate Practice	_____	_____	_____
Historian	_____	_____	_____
Intellectual Property Law Revision	_____	_____	_____
Intellectual Property Licensing	_____	_____	_____
International Law	_____	_____	_____
Patent and Trademark Office	_____	_____	_____
Patent Litigation, ADR and CAFC Program	_____	_____	_____
Publications (responsible for <i>New Matter</i>)	_____	_____	_____
Public Relations	_____	_____	_____
Software Protection	_____	_____	_____
Trademarks and Unfair Competition	_____	_____	_____
Women in Intellectual Property Law	_____	_____	_____

Please check any of the following appointments you would consider in the future (these positions are presently filled but we would like this information for planning purposes):

- ___ MIPLA Representative to the MSBA Board of Governors
- ___ MIPLA Representative to the MSBA House of Delegates
- ___ U.S. Bar-EPO Liaison Council
- ___ U.S. Bar-JPO Liaison
- ___ NCIPLA (National Council of Intellectual Property Law Associations) Representative

Please check any of the following offices you would consider holding in the future (these positions have already been filled for 2001-2002 but we would like this information for planning purposes):

- ___ Vice-President and President Elect
- ___ Secretary
- ___ Treasurer
- ___ Board Member

Your Name (please print) Telephone Employer

E-mail address
Mail or fax this form to: Brad Forrest, Schwegman Lundberg, et al, 121 S. Eighth St. #1600, Minneapolis MN 55402; or fax to 612-339-3061.

Minnesota Intellectual Property Law Association, Inc.

Application for Membership

Name _____

Business Address _____

or

Home Address _____

Business Telephone _____

Fax _____

Home Telephone _____

E-Mail Address _____

1. Class of Membership Active Student/Graduate
2. Are you admitted to practice US PTO? Yes No
3. Are you admitted to the bar?
State(s) _____ Yes No
4. Are you actively engaged in practice
of intellectual property law? Yes No
5. Are you a member in good standing
of the Minnesota State Bar Association? Yes No
6. For Student/Graduate membership: _____
(law school and year of graduation)

Annual dues in the amount of:

- \$85 Active \$42.50 Student
 \$42.50 (1/1/02-6/30/02) Active \$21.25 (1/1/02-6/30/02) Student

is enclosed payable to MIPLA. Mail to: Minnesota State Bar Association, Attn: MIPLA Administrator,
600 Nicollet Mall, Suite 380, Minneapolis, MN 55402.