



CALENDAR

----April 21, 2014----

**Section Event: Perspectives on
Recent Efforts in Patent
Litigation Reform**

Alston & Bird
12pm – 1pm

(click [here](#) for info)

----April 30, 2014----

**Section Event: Issues Facing
In-House Copyright Attorneys**

(stay tuned for details!)

----May 22, 2014----

**Spring Networking Event
Celebrating the IP Section's
50th Anniversary**

Four Seasons Midtown
6pm – 8pm

(click [here](#) for info)

----May 22, 2014----

**Section Event: Policing and
Enforcing Trademarks on
Social Media**

(tentative) Four Seasons Hotel
4pm – 6pm

contact Alison Danaceau for info:
adanaceau@brannlaw.com

----September 18-21, 2014----

**The 20th Annual IP Institute
Omni Amelia Island Resort**

contact IP Section Chair-Elect
Brad Groff for info:
bgroff@gardnergroff.com

----October 13, 2014----

**The CIP CUP[®]
2014 Charity Golf Event**

to benefit GA Lawyers for the Arts
& GSU Intellectual Property



Message from the Chair

Dear IP Section Members:

February ended on a high note for the Section with the Second Annual Atlanta IP Section Gala honoring the federal judiciary. The Gala was held at the High Museum on February 28th. We had about 230 attendees, which included about 9 judges from the Federal Circuit and the Northern District of Georgia. There are many who contributed to making the event a big success.

Our thanks go first to the numerous judges who attended. In particular, we thank Chief Judge Randall Rader and Judge Sharon Prost of the US Court of Appeals for the Federal Circuit, who presided over a mock oral argument and spent the evening with us at the Gala. Both were very candid with their comments and answered a number of questions about best practices related to appeals to the Federal Circuit. In addition to these Federal Circuit judges, a number of local federal judges attended. Section members were given an opportunity to get to know all of the judges in a social setting, at the cocktail reception and dinner that followed the oral argument. All were very gracious and interactive guests of the Section.

Without sponsors, the Section would either be unable to provide the Gala or would be required to markedly increase the



charge for each seat or table at the Gala. So, we enthusiastically thank the following sponsors: Finnegan, Kilpatrick Townsend, Merchant & Gould, McKool Smith, Robins Kaplan, Alston & Bird, King and Spalding, Atlanta IP Inn of Court, Fish & Richardson, and the IP Section of the Atlanta Bar.

The oral argument would not have been the success that it was if not for Jeffrey Blake (Merchant & Gould), Courtland Reichman (McKool Smith), and Courtney Alexander (Finnegan). Jeff and Courtland argued as the appellant and appellee, and Courtney moderated the CLE. All three did a great job, leaving us little or nothing by way of lessons in what not to do! Thank you for your enthusiasm, your competence, and your willingness to withstand a hot appellate bench for non-paying, fictional clients.

See *Message*, page 2

Message, continued from Page 1

We cannot forget to thank the band, De Novo, featuring Chief Judge Rader as the lead singer. The band members traveled to Atlanta from as far away as Washington (both Seattle and D.C.) for their debut performance in Atlanta. The band, however, needed a substitute for their missing drummer. After a few emails, we identified a local drummer for the right fee -- Chris Kelly of Alston & Bird. Chris was kind enough to spend the evening playing drums for Chief Judge Rader and De Novo. By all accounts, he did a splendid job. Thank you, De Novo, and thank you, Chris!

We are also grateful to Chief Judge Rader and Judge Prost's former clerks in Atlanta. David Hricik suggested we invite the Chief Judge and his band.

Chad Pannell (former Prost clerk) and Lindsay Hopkins (former Rader clerk) shuttled both judges around town and helped make sure the Section met their needs during their stay in Atlanta. These former clerks made the Georgia IP bar look good!

There were many others who helped make the Gala a success. Jim Hatten, District Court Executive / Clerk of Court for the US District Court for the Northern District of Georgia, also worked behind the scenes to ensure a number of judges from the Northern District attended. Virginia Carron, President of the Atlanta IP Inn of Court, and Chris Lightner, Chair of the IP Section of the Atlanta Bar, accepted any assignments they were given and provided many valuable suggestions. Mark Siegel broke the ice and asked the

dreaded first question after the oral argument.

The Section is not resting on its laurels following the Gala, however. We are working on a number of events -- both substantive and social. Perhaps most significantly, we turn next to celebrating the 50th anniversary of the Section, which began as the Patent, Trademark & Copyright Law Section in 1964. You will find an article in this newsletter based on an interview with Miles Alexander of Kilpatrick Townsend, who provides some interesting insights into the history of IP practice in Georgia. We are also looking to recognize all of the past chairs at the Section's Spring Social (details to follow). So please look for more informative and fun Section events in the next few months.

Tina Williams McKeon, Kilpatrick

Committee News

IN-HOUSE / LICENSING COMMITTEE & TRADEMARK COMMITTEE

The Trademark Committee and In-House Counsel/Licensing Committee are pleased to host a CLE covering Policing and Enforcing Trademarks on Social Media on May 22nd, from 4-6pm, followed by a social hour at which in-house, outside, large and small law firm counsel can connect. The Panelists include Bakari Brock (Google), Todd Williams (Turner Broadcasting Co.) and Lindsey Corbin (Z3 Consulting). The co-moderators will be Matt Smith (Innovolt) and Joe Staley (Kids II). The location will most likely be the Four Seasons. We are looking for sponsors and participants, so please contact Alison Danaceau at adanaceau@brannlaw.com if you would like to participate.

Also, the Trademark Committee will be hosting a Lunch & Learn with Leslie

Slavich, CEO of Spanx, on June 26th from noon until 1pm at the Promenade. Finally, the Trademark Committee In-House sub-committee is planning a happy hour on May 8, 2014. Please watch for our email invitations with further information!

Looking back, on March 24th the Section co-sponsored a CLE event on the "Ethics of Patent Troll Litigation," in conjunction with Emory University School of Law. The event included a fantastic panel consisting of Professor Tim Holbrook (Emory), Bernie Zidar (McKesson), Bob Lee (Alston and Bird) and Professor David Hricik (Mercer). Over 70 students and attorneys attended the event and heard a rousing debate on various topics associated with "patent troll" litigation. As part of the discussion, the panel addressed many of the proposed pieces of legislation before Congress that aim to curtail these types of patent infringement cases and

discussed why it is so difficult to even define the phrase "patent troll." Thanks to all who attended, and special thanks to our fantastic panelists!

NETWORKING COMMITTEE

The Networking Committee is pleased to announce the annual Spring Networking Event, this year celebrating the 50th Anniversary of the IP Section! The celebration will be hosted at the Four Seasons Midtown on Thursday, May 22, from 6-8pm.

Cocktails and appetizers will be provided, along with complimentary parking. There is no cost to attend, but registration is required so please click [here](#) for further information, and check back often for registration details. You may also contact Suzanne Werner at suzanne.werner@alston.com for further information.

We are excited to celebrate, and look forward to seeing you there!

PATENT COMMITTEE

The Patent Committee is pleased to announce a one-hour lunch-and-learn CLE to discuss Perspectives on Recent Efforts in Patent Litigation Reform, to be held from 12-1pm on April 21, 2014 at Alston & Bird.

This CLE will include a review of the most recent legislative proposals for patent litigation reform, including a discussion of the potential effects upon the U.S. patent system, and an exploration of alternatives to legislation that are possibly more well-suited for implementing desired reforms

The event will be moderated by John DiRico (AirWatch by VMware), and will feature as panelists Professor Tim Holbrook (Emory), Bob Lee (Alston & Bird), and Chris Haggerty (Noble Systems).

Lunch and one hour of CLE will be provided, but please plan to arrive early to ensure timely seating. Click [here](#) to take advantage of lower prices for early registration!

COPYRIGHT COMMITTEE

The Copyright Committee has scheduled an event for Wednesday, April 30, 2014. The topic of the event will be practicing copyright law in an in-house environment. A panel of in-house lawyers will discuss the types of copyright issues being confronted by in-house lawyers on a day-to-day basis and provide perspective on how companies

are addressing those issues. Details of the event are being finalized and will be released soon. We look forward to seeing you at the event!

YLD COMMITTEE

On April 3, the Young Leadership Development Committee hosted a "Lunch with Atlanta IP Legends: War Stories & Career Advice." Many thanks to Taylor English Duma LLP for sponsoring this event. The panel of legends, including Joan Dillon, Miles Alexander, and Tony Askew, shared stories about practicing law in the late 1950's and early '60s, a time when the largest law firm in Atlanta had only 20 members! The panel offered some excellent wisdom about how to navigate a legal career, including a call from Mr. Alexander for younger lawyers to stay open minded and civil when dealing with colleagues across the aisle.

PHILANTHROPY/OUTREACH COMMITTEE

The IP Section, in collaboration with Georgia Lawyers for the Arts, the Federal Circuit Bar Association, Georgia State University's Law School, and other interested organizations, is committed to the formation of Georgia's Patent Pro Bono Program.

To this end, the IP Section Executive Committee is proud to announce a five year monetary grant to Georgia Lawyers for the Arts, to assist with this worthy cause. Going forward,

the Section, and the Philanthropy and Outreach Committee in particular, will play an integral role in matching pro bono cases to Section members committed to the initiative.

We thank the Membership for its generous support, and hope you will stay tuned for further details as we work to make this program a reality for deserving inventors across the State of Georgia. For more information, please contact our Section Co-Chairs:

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LITIGATION COMMITTEE

The Litigation Committee hosted a January luncheon to discuss Damages Experts for Intellectual Property Litigation matters. Best practices concerning the selection and retention of experts, the handling of expert reports and depositions, and recent case law impacting experts, were covered. The event concluded with a discussion of damages unique to trademark cases, and how experts determine starting points for damages in the absence of appropriate comparators.

We look forward to seeing you at the next Litigation Committee event in June 2014.

Local Firm Seeking Partner-Level IP Attorney

Lilenfeld PC, a growing intellectual property boutique law firm in Buckhead, seeks a talented, partner-level Intellectual Property attorney with some portable business or a demonstrated ability to generate new business. Ideal opportunity for an entrepreneurial lawyer to leverage our Firm's infrastructure, brand and other assets to reach business generation goals and take control of his or her career. Leadership or managerial skills are a plus. Great office space in heart of Buckhead, with excellent support personnel. Compensation will be intended to achieve a win-win, strong, and long-term relationship.

Interested persons should please forward a CV to Resumes@LilenfeldPC.com. All inquiries treated with utmost confidentiality.



Spotlight On:

Miles Alexander

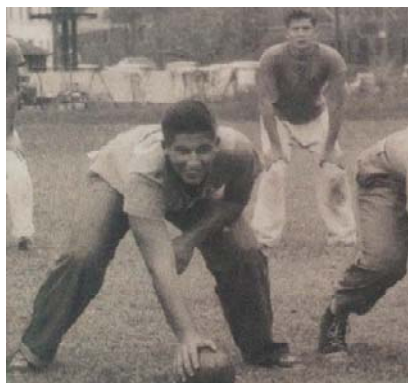
Looking Back and Peering Ahead:

Fifty Years as an Atlanta IP Attorney

by Alan White



As a second-year law student at Emory University, I attended a meeting of the newly-formed Atlanta IP Inn of Court, which was hosted that evening by Kilpatrick Stockton (now Kilpatrick Townsend & Stockton). I arrived a bit early, and as I hesitated in the doorway one of the attorneys politely excused himself from conversation, and walked over to shake my hand. “Hi,” he said, “I’m Miles Alexander.”



On the gridiron at Emory, 1949

Of course, I didn’t find out until later on that I had been speaking with a famous IP attorney, who had secured and defended the intellectual property rights of some of the best-known brands in America, including Adidas, Domino’s Pizza, Frito-Lay, General Mills, Harley-Davidson, and the Estate of Martin Luther King, Jr., Inc. (to name just a few), and who was furthermore highly

esteemed for his lifelong commitment to pro bono work and civic involvement.

So I was very excited when I learned that Mr. Alexander had agreed to be interviewed for a profile in this month’s issue of the IP Section Newsletter. We met in his office, and over the course of an afternoon’s conversation covered a wide variety of topics, including family, the law, his favorite cases, sleepless nights worrying about clients, and his fondness for old books. I am grateful that he took the time to share his stories, his advice, and his unique outlook on the development of the Atlanta IP community over the past fifty years

Education and Early Interest in the Law

Miles Alexander is a first generation American, and displays the citizenship documents that his father (born in London) and grandfather (born in Russia) received after immigrating to America, in a frame next to his office door. As a young man he played football (blocking back, defensive end, and punter), baseball (third base and ‘windmill’-style pitcher), and basketball. He is also an avid tennis player, and tries to make it out on the court every weekend. A self-described “Army-brat,” he attended four different high schools in Virginia, Japan, New York, and Florida, before matriculating,

at the age of 16, as a freshman at Emory University.

While a student at Emory, he met his lifelong friend and colleague, Elliott Levitas. The two shared a talent for debate, and the December 2, 1949 issue of the Emory Wheel newsletter includes a front-page photo of the pair holding a trophy and shaking hands after winning the Emory all-campus debate tournament.



Miles Alexander (L) and Elliott Levitas celebrate victory at the 1949 Emory All-Campus Debate

Their victorious, final-round topic: that the Emory Graduate School’s refusal to admit African-Americans violated the Equal Protection Clause of the Constitution. The topic presaged Mr. Alexander’s lifelong commitment to civil rights and pro bono work, which in 2012 earned him both The Emory Medal (the highest honor awarded to an Emory University alum), and induction into the Gate City Bar Hall of Fame (the highest

accolade bestowed by the oldest African-American Bar Association in the State of Georgia).

Legal Education and Early Career

After graduating Phi Beta Kappa from Emory in 1952, Mr. Alexander attended Harvard Law School, graduating *cum laude* in 1955. While at Harvard, he participated in the Air Force ROTC program, and after earning his J.D. he served for two years as an Air Force Judge Advocate, stationed in New Mexico, Newfoundland, and New Jersey. As a young Air Force attorney, Mr. Alexander experienced the first of many sleepless nights spent worrying over clients, “especially when I knew my client was innocent, or was facing what I believed was an excessive sentence.” Years of practice haven’t changed things, and he still has a hard time sleeping when he is concerned about a client, with a pro bono habeas matter being the cause of his most recent bouts of insomnia.

After the conclusion of his service in the Air Force, Mr. Alexander returned to Harvard Law School as a teaching fellow. There, he lectured on trial practice and legal writing, and counts Justice Scalia and former Massachusetts Governor Michael Dukakis among his students. He enjoyed teaching, but the prestigious setting did nothing to assuage his discontent over the lack of diversity in the legal and academic worlds. While discussing a framed photograph of the 1957 Harvard Law School Faculty that he keeps in his office, I was surprised to hear him describe it as “a reminder of the way things were back then: all male; all white.” Asked if that bothered him, he replies, “Yes, it did.”

Joining Kilpatrick

Having summered with Kilpatrick in 1954 and ‘55, Mr. Alexander returned to Atlanta to join the firm as an associate in 1958. Then known as Smith, Kilpatrick, Cody, Rogers & McClatchey, the firm

was the largest in Atlanta – with 14 attorneys. “I really liked the people who worked at the firm,” he recalls, adding that “at the time, it was one of the only firms in Atlanta that would hire a Jewish attorney.” He now wryly observes that Kilpatrick Townsend has more offices worldwide than it had attorneys in Atlanta when he joined.

The size and hiring practices of local law firms aren’t the only things about the Atlanta legal community that have changed over the years. With a starting salary of \$4,200, joining the largest law firm in Atlanta actually forced Mr. Alexander to take a sizable pay cut compared to the salaries he had earned while working for the Air Force and Harvard. “Back then a legal career just didn’t guarantee a good income,” he told me, observing that in those days a genuine interest in the law was often more of a motivation for choosing a legal career than salary.

Family

But Mr. Alexander had motivation for seeking a career with an Atlanta law firm that easily trumped salary

considerations: his wife, Elaine. The two met in 1949 at the old Emory train station (now a campus restaurant), where she was visiting her brother, an Emory classmate and friend to Mr. Alexander. They have been married since 1955. Mr. Alexander often jokes that “I married above my station,” noting that over the years Elaine has proved “an incredible leader in the Atlanta community,” given her work as the former executive director of Leadership Atlanta (the oldest sustained community leadership program in the country), and her involvement in a myriad of public interest groups, including Planned Parenthood, the Anti-Defamation League, the American Jewish Committee, and the Atlanta Women’s Foundation. Realizing that an academic career might not permit them to remain in the same location while raising a family, the Alexanders chose to return to Atlanta, despite offers for Mr. Alexander to join several New York firms. He notes that Atlanta promised a more relaxed atmosphere than New York, and that the prospect of fewer snow-filled winter days was also a consideration. Mr. Alexander has now been with Kilpatrick for over fifty years, and he speaks of his family,



The Alexanders in 1968 – (L to R) David, 9; Elaine; Paige, 3; Michael, 6; Miles; and Kent, 11.

which in addition to Mr. and Mrs. Alexander now includes four accomplished children (Paige, Michael, David, and Kent), their equally-talented spouses, and eleven grandchildren, with obvious affection and pride.

Perspective on the Changing Face of IP Law and Practice

While his earliest work at Kilpatrick involved everything from tort actions and family matters to corporate acquisitions and antitrust cases, Mr. Alexander soon gravitated towards the field of intellectual property law. He observes that when he started practicing, many corporations believed that Southerners were more likely to favor protecting the somewhat esoteric and intangible rights asserted in copyright and trademark matters. This widespread belief (which Mr. Alexander characterizes as a “myth”), made Atlanta the venue of choice for many such disputes, providing the impetus for the development of Atlanta’s now vibrant intellectual property community.

As they are today, trademarks and brand names were recognized in those days as extremely valuable. But Mr. Alexander points out that there have been important changes to the avenues available for protecting such assets. As one example, he describes an early case against a Florida paint manufacturer that went by the name of the “Betty Crocker Paint Company.” At that time, trademark law did not provide a remedy where an accused infringing product was sufficiently dissimilar from the original. Nevertheless, the judge in the case was “so incensed by the attempt to trade on Betty Crocker’s good name” that he enjoined the defendant from doing so, even though paint and bakery products were arguably dissimilar. Mr. Alexander highlights this as a favorite case, because it exemplified trademark dilution principals more than thirty years before

they were codified in the federal antidilution statute.

Mr. Alexander also uses the Betty Crocker case to help illustrate how online caselaw organization and searching, which he praises for its convenience and widespread dissemination, can nevertheless present risks for unsuspecting attorneys. The illustration involves a favorite quote from Judge Learned Hand who, more than seventy years before the federal antidilution statute was passed, addressed relief for trade name misappropriation where there is no direct competition between parties (much like the Betty Crocker Paint case). Recognizing the harm of such uses, Judge Hand wrote that “[t]his is an injury, even though the borrower does not tarnish it, or divert any sales by its use; for a reputation, like a face, is the symbol of its possessor and creator, and another can use it only as a mask.” *Yale Elec. Corp. v. Robertson*, 26 F.2d 972, 974 (2d Cir. 1928). Mr. Alexander observes that a contemporary attorney researching the law of trademark dilution could easily overlook this great quote, especially if she or he does nothing but run a keyword search for the terms “dilution” and “trademark,” because neither the *Yale Electric* case nor its associated “keywords” contain the word “dilution.”

Mr. Alexander himself avoids such pitfalls by keeping hardcover versions of numerous trademark, copyright, and patent treatises in his office. Two of his favorites are Rogers’s “Good Will, Trade-Marks, and Unfair Trading,” and Derenberg’s “Trade-mark Protection and Unfair Trading.” His office is wonderfully full of books, including Volumes 1-14 of the Harvard Law Review, which he rescued from a dumpster (while he enjoys the immediate access to updated caselaw provided by modern online electronic databases,

Mr. Alexander nevertheless observes that “it breaks your heart to see the old treatises get thrown out”). A great many of the books and treatises are tabbed with paper and plastic “Post-It” notes in a variety of shapes, sizes, and colors, and I am struck by the juxtaposition of the more venerable tomes (the Harvard Law Reviews date back to 1887, and the Rogers and Derenberg treatises are copyrighted 1914 and 1936, respectively), with the much more recently-developed technology used for annotating them.

When asked for his perspective on ways in which the practice of IP law has changed over the years, Mr. Alexander observes that many attorneys now spend little time practicing in other fields before choosing to focus on intellectual property. While admitting that such a career path allows attorneys to gain much-needed expertise in a short amount of time, he notes that it comes at the sacrifice of experience in other areas of the law. As a result, he feels that some IP lawyers today lack the early legal experiences necessary for applying concepts from other legal fields to novel problems in intellectual property. He also notes that the convenience of internet searches, online databases, and e-mail communications have quickened the pace of law “incredibly,” which in turn creates more pressure for practitioners, especially as information and communication through these mediums is available twenty-four hours a day, seven days a week.

When I ask about the biggest substantive changes he has observed in patent law, Mr. Alexander points to the relatively recent advent of method claims and patent trolls, and predicts that antitrust considerations will play a more prominent role in the future practice of patent law. As for trademark and copyright law, he believes that the

biggest issue facing clients and practitioners is the breakdown in traditional borders. Observing that those areas of the law historically dealt with more localized instances of infringement and/or unfair competition, he notes that the ubiquity of television and internet communication now necessitates the consideration of such matters on a truly global scale. Thus, although the legal concepts that underpin copyright and trademark law have remained largely intact, advances in technology have created barriers to the assertion of copyright and/or trademark rights, because infringers can now target any home in America from any country in the world.

Advice for Beginning Attorneys

Like many successful practitioners, Mr. Alexander believes that most

beginning attorneys would benefit from a greater focus on pro bono work. He also points out that when he started as an associate with Kilpatrick it was common for attorneys, on their own time, to perform legal work for friends without charging fees. He sees this as an extremely beneficial practice, which in his own career has cemented longstanding relationships with “some of the most loyal clients I’ve ever had.” He notes with approval that many firms have instituted small business groups and/or “incubator” practices, which explore representations for start-up clients that otherwise could not afford the services of a large law firm, often in exchange for reduced fees, equity stakes, or just the promise of future business. Finally, Mr. Alexander observes that the importance of taking a personal interest in client needs, which includes promptly

responding to client communications and regularly providing matter updates, is as vital today as it was when he joined Kilpatrick in 1958.

* * *

On our way out, Mr. Alexander and I stop to admire a large, mixed-media portrait of John Lennon that hangs at the end of a Kilpatrick Townsend hallway. It is a striking image, and he tells me that it was created by his granddaughter, who is currently an art student. Upon closer examination, I can see that its background consists of dozens of overlapping pages that have been removed from a book and affixed to the canvas. As we turn to leave, he pauses for a second look. “Of course,” he muses, ever the IP lawyer, “if she ever wants to sell reproductions . . .”

Save the Date for the 20th Annual IP Institute!



The IP Section will host the 20th Annual Intellectual Property Institute on September 18-21, 2014, at the beautiful Omni Amelia Island Resort. Our Executive Committee is planning 8 hours of CLE credit, featuring informative topics and high-profile speakers, including several Federal Circuit Judges. Families are welcome, so be sure to take advantage of this opportunity to network and socialize while enjoying the fine dining and beachfront activities at this lovely oceanfront resort!

We are pleased to offer fantastic benefits for sponsors, and a few sponsorship slots remain available. For additional information regarding speaker requests, program topic ideas, and sponsorship opportunities, contact Virginia Carron at (404) 653,6400, virginia.carron@finnegan.com, or Brad Groff, IP Section Chair-Elect, at (770) 984-2300 (bgroff@gardnergroff.com). We look forward to seeing you there!



Upcoming Events

----April 21, 2014----

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