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Chair's Message

Message from IP Section Chair Chris Lightner



This bar year we are continuing our efforts to return to a pre-pandemic normal. Our committees are already hosting several in-person CLE events covering a wide range of relevant topics—with more to come as well. The IP section is also once more returning to the Mid-Year Meeting of the State Bar, with a seminar that hopes to be of interest to IP and non-IP attorneys alike. Our Executive Board members are even beginning coordination efforts for a larger section-wide event next spring, likely based locally geographically, but akin to the programming we used to have way back in 2019! We encourage all of you to re-engage or further engage as notices of upcoming educational programs are circulated.

We are also planning several social events throughout the year, with the goal of driving membership growth and participation in our programs. We have seen excellent results in this regard so far, with many of our committees having been reinvigorated with “new blood.” If you’re interested and not yet involved, please reach out to me directly. I can personally attest that being active in the committees and programming was how I originally became involved with the Section and that involvement has been of great impact for me both personally and professionally. I hope that we, as a Section, can be a valuable resource in this regard for each of you, too!

Also worth highlighting, the IP Section’s website has been progressing through the process of being revamped and updated, with the goal being to make it more user-friendly and relevant. If you have not checked it out yet, please do so in the near future!

Finally, I want to thank each of you for your ongoing support and service to the Section; we, as your leaders and Executive Board, could not do half of what we do each year without your efforts! To those of you tirelessly dedicated—your efforts are not unnoticed. To those of you looking to become more involved—we are ready to welcome you! Why wait—jump on in!

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Strong Attendance Reported for March 27 CLE Seminar on Proposed FTC Rule Banning Noncompetes



From left to right: Serena Moseley-Day; Samuel C. Birch; and Benjamin I. Fink

On March 27, 2023, both the Intellectual Property Section and the Corporate Counsel Section of the Georgia Bar jointly conducted an in-person CLE seminar titled “The FTC’s Proposed Ban on Noncompetes: Everything You Need to Know.” This seminar took place at the Georgia Bar Building and was well-attended, with 65 bar members in the audience.

The attendees received an informative and insightful presentation delivered by panelists Serena Moseley-Day, an attorney with the Federal Trade Commission; Benjamin I. Fink, a Shareholder with Berman Fink Van Horn P.C. (BFV); and Samuel C. Burch, General

Counsel and Corporate Secretary, WayForth. Neal Weinrich, also a BFV Shareholder and the Vice Chair of the Trade Secrets Committee, served as the panel moderator.

The FTC extended the comment period for its proposed rule banning noncompete covenants (to be codified at 16 C.F.R. § 910 if implemented) to April 19 after receiving what has been called a “firestorm” of over 16,000 comments. Additionally, the U.S. Chamber of Commerce announced that it intended to mount a legal challenge to the rule if the rule gets approved. The CLE panel predicted that if such approval happens, the FTC’s rule would likely take effect 60 days after publication of the final rule in the Federal Register.

Mr. Fink’s portion of the presentation discussed the chain of events leading to the FTC’s action in proposing its rule, and discussed the provisions of the rule and likely effect of each. Mr. Burch expressed his perspective on how implementation of the FTC’s rule would impact mergers and acquisitions, given that employees currently under covenants, and not exempt from the FTC’s rule, would then be free to leave the company targeted for acquisition.

The presentation concluded with action items that employers should now be taking to prepare for possible approval of the FTC’s rule, including identification and further protection of any trade secrets. If the noncompete ban goes into effect and if the employer identifies potential trade secrets and takes active measures to protect their confidentiality, then the employer would have an option of resorting to trade secret litigation to attempt to protect against disclosure of any trade secret material in the wake of the employee’s departure.

For information on IP Section events and news, please visit the IP Section website at <http://georgiaip.org/>.

Intellectual Property Rights at the Port CLE Delivered at the 2023 State Bar of Georgia Annual Meeting



From left to right: Moderator and Communications Chair Rachel Young Fields; Deborah Stern; Morgan McPherson; and In-House Committee Co-Chair Justin C. Ward

At the State Bar of Georgia Annual Meeting in Savannah on June 10, 2023, the IP Section delivered a live CLE under the title “Intellectual Property Rights Enforcement: What Businesses that Manage, Transport, Import and Export Goods Need to Know.”

Attendees of this CLE presentation learned about the tools and processes for the protection and enforcement of intellectual property rights (IPR) at the port from panelists Morgan McPherson, Attorney-Advisor in the Intellectual Property Enforcement Branch, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection; Deborah Stern, partner with Sandler, Travis & Rosenberg, P.A.; and Justin C. Ward, Vice President of Legal and General Counsel at Blue Force Gear, Inc. and In-House Committee Co-Chair. Rachel Young Fields, partner with Hunter, Maclean, Exley & Dunn, P.C. and IP Section Communications Chair, served as panel moderator.

The panel discussed the role that U.S. Customs and businesses play in identifying and addressing counterfeit goods. The presentation included insights from U.S. Customs on registration and recordation of intellectual property and how these steps impact enforcement at the border. The panelists also provided an overview of the IPR enforcement process, including detention, seizure, and forfeiture, along with a discussion of available

remedies. The presentation concluded with best practices – for both IP owners and businesses seeking to avoid infringement – to prepare for or prevent IPR enforcement issues at the border.

The Patent Committee held a CLE on October 26, 2023 at the Georgia Bar Conference Center



From left to right: Andrew Strickland and Josh Curry

The panel speakers were Josh Curry (Partner and IP Group Vice Chair, Lewis Brisbois), Hala Mourad (Partner, Lee & Hayes), and Andrew Strickland (General Counsel, Unirac Inc.). The panel and the audience had a lively discussion concerning interesting and important court decisions from the past year or so, including decisions concerning prosecution laches, enablement of “genus” style claims, AI as an inventor/author, and rules requiring disclosure of litigation funding.

“2023 In-House Law Update” CLE Presented by the In-House Committee

On October 30, 2023, the In-House Committee of the IP Section of the State Bar of Georgia presented a CLE entitled “2023 In-House Law Update” via Zoom. Attendees of this CLE presentation learned about Patent Inventorship, Third-Party Litigation Funding and Venue Trends, Generative AI -General Thoughts, Interest Level, Experience and Concerns from the panelist Robert Gravois (Assistant General Counsel, Intellectual Property; ADT, Inc.) and Michael Sochor (Senior Lead IP Counsel; Dexcom, Inc.) and panel moderators Joe Staley (Partner; Perilla, Knox & Hildebrandt), and Justin Charles Ward (General Counsel; Blue Force Gear, Inc.). The panelist discussed some of the most important in-house law updates from the last year and the impact each has on their practices.