

NAPLES III

Third Annual Naples Midwinter Patent Experts Conference

under auspices of the Akron Law IP Program

February 7-10, 2015

The Naples Beach Hotel & Golf Club

www.naplesbeachhotel.com



(pictured: Dinner Reception Venue for Monday night at the Naples Beach Hotel)

Key Players

<i>Conference Organizer:</i>	Shannon F. Aupperle	sfauppe@uakron.edu
<i>Registration Waiting List:</i>	Shannon F. Aupperle	sfauppe@uakron.edu
<i>Conference Sponsorships:</i>	Prof. Jeffrey Samuels	jeffreysamuels@aol.com
<i>Program Content; speakers:</i>	Hal Wegner	hwegner@gmail.com

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Conference Framework February 7-10, 2015

Events On Saturday/Sunday the 7th and 8th: Early faculty and sponsor arrivals will be welcomed at a reception hosted by Lynn Eccleston at the Wegner home Saturday afternoon 3:00 – 5:00 PM to give everyone a chance to get together and plan activities for Sunday. In the first two years of the conference there have been escorted boat tours through Naples harbor, a fishing trip in the mangroves off Sanibel Island and various beach activities as well as early morning bird watching in Pelican Bay. In 2015, given the location of the venue hotel directly on the Naples beach, it is anticipated that some folks will want to center their activities on the beach itself.

50 % Expansion from the 2014 Conference: In 2014 the Conference was a one day event of two sessions, preceded by a one day Faculty Only Conference. In 2015, there will be three sessions over a two day period, with the second day concluding by 2:00 PM to permit either beach activities or an early return north.

On Tuesday, to permit 6 hours of CLE and an early getaway departure, two sessions will run consecutively, nonstop beginning at 8:00 AM through a working box luncheon until 2:00 PM. This will give participants the option of spending an afternoon at the beach or golfing – or returning home the same day.

Timing of the events on Monday the 9th and Tuesday the 10th: on Monday, six hours of CLE will follow a continental breakfast/registration that will take place at 8:00 AM. A full day of sessions will run from 9:00 AM until 4:00 PM, that may also include a luncheon speaker (to be determined).

Monday evening Lawn Reception at the Beach: 6:00 – 8:00 PM there will be a reception on the lawn right on the Gulf of Mexico followed by a dinner at the convention venue.

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Tuesday Dinner for Sponsors and Faculty: At the recently concluded Second Annual Conference, Judge Linn hosted a dinner at a local restaurant for faculty and sponsors. It is anticipated that a similar event will be held Tuesday evening after the Conference.

Fishing, Bird Watching, Beachcombing, Golfing and Tennis: Throughout the period of the conference various parallel opportunities exist. The Naples beach is directly in front of the hotel and will thus be available throughout. Golfing and tennis are available at the venue hotel. Fishing charters either in the Gulf or the mangroves can be arranged (which should be made in advance of the conference, given high season). Bird watching opportunities and itineraries can be arranged in advance.

The Conference Faculty and Agenda

The Naples Conference is unique in that it is the only Conference with a large faculty that is focused *exclusively* on issues relevant to patent procurement and enforcement, all in a single track, and all with a total participation including registrants of no more than 100 persons.

The faculty is once again expected to have a heavy concentration of former government officials at all levels from examiners and judicial law clerks up to leaders of the Patent Office, leading academics and corporate and private practitioners. The forty-plus faculty members from 2014 are listed in these materials.

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The agenda will not be finalized until shortly before the conference to take advantage of late-breaking events at the courts, the Patent Office and in Congress. At this time the breakdown of the conference is expected to follow the following pattern.



(breakfast at the Terrace)

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Tentative 2015 Agenda

(I) Monday Morning Focus on the Supreme Court and Federal Circuit: The opening of the conference has been deliberately timed immediately after “court week” at the Federal Circuit to facilitate participation by members of the court. It is anticipated that we will once again have at least three members of the judiciary including two members of the Federal Circuit and a distinguished jurist from Canada; we also expect present and former members of the PTO board to be participants.

It is expected that as in 2014, the panel dealing with the Federal Circuit and the Supreme Court will be chaired by **Gary Hoffman** while a featured participant will be Emory University Law School Associate Dean **Timothy Holbrook**.

(II) The PTO: Deference, Claiming; Intervening Rights; PTAB Procedures:

One of the three remaining sessions will be devoted to the latest, cutting edge issues involving the PTO, particularly in the context of post-grant actions of the PTAB. The 2014 conference featured **PTAB Chair James Smith**, former **APJ William Smith** and several post-grant experts from private practice.

Michael Dzwonczyk, a central figure in both the 2013 and 2014 conferences, is expected to chair the PTO portion of the Conference.

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(III) Obviousness from a Comparative Viewpoint: A highlight of both the 2013 and 2014 conferences has been a comparative view of the standards of “inventive step” in Europe and Japan versus “nonobviousness” under *KSR* in the United States. A genuine conflict in patent drafting exists between the preferred EPO standard of setting forth a “problem” (and solution) as a condition for “inventive step” whereas the very setting forth of an existing problem for the United States application may be fatal to patentability under *KSR*.

Each year we have had leading speakers from both Europe and Japan; this will continue in 2015 in a panel again to be chaired by **David Perkins**.

Confirmed Agenda Items for 2015

Claiming Definiteness: The Supreme Court has reversed the Federal Circuit “insolubly ambiguous” test to measure § 112(b), but remanded to the Federal Circuit to flesh out details of its mandate. Commonwealth countries have a standard of “avoidably ambiguous”. The Conference will take a comparative view at the different approaches.

Utility: Historically, a pharmaceutical satisfied utility requirements if there is an original disclosure of a *specific* pharmaceutical utility accompanied by an example (real or prophetic) disclosing how the invention is made or used. Both the United States and Canada have deviated from this historical norm.

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Confirmed Agenda Items for 2015 (con'd)

TENTATIVE

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c confirmed

(2013) speaker from previous conference, invited

Meredith Martin Addy, Katten, Chicago (2013)
Professor J. Jonas Anderson, American University Washington College of Law (2013)
Robert A. Armitage, Consultant, IP Strategy & Policy, Marco Island (2013)
Andrew S. Baluch, *fmr.* White House Dir. of Int'l IP Enforcement; Foley & Lardner LLP c
Hon. Sharon R. Barner, *fmr.* Dep. Under Sec'y of Comm.; Vice-President, Cummins, Inc' (2013)
Paul Cole, *editor*, CIPA Guide; Lucas & Co. c
Professor Dennis Crouch, University of Missouri; editor/publisher, *Patently O* blog (2013)
Professor Michael R. Dzwonczyk, Geo. Wash. U.; Sughrue LLP; c
Ury Fischer, *Chair*, IP Committee of the Florida Bar; Lott & Fischer, PL. (2013)
Prof. Francis J. Fodale, Ave Maria School of Law (invited)
Professor Dr. Heinz Goddar, Boehmert & Boehmert (2013)
James Gould, Gould Intellectual Property Consulting Group (2013)
Professor J. Jeffrey Hawley, University of New Hampshire (2013)
Gary Hoffman, strategic consultant, GaryHoffmanIPConsulting.com (2013)
Dean Timothy R. Holbrook, Assoc. Dean, Emory U. Law School (2013)
Professor William Hubbard, University of Baltimore (2013)
Hon. Roger T. Hughes, Federal Court of Canada c
Jerold A. Jacover, Foley & Lardner LLP, Chicago
Hon. David J. Kappos, *fmr.* Under Sec. of Commerce; Cravath Swaine & Moore LLP. c
Hon. Robert Kinder, U. Akron IP Advisory Board; Administrative Patent Judge (2013)
Hon. Richard Linn, U.S. Court of Appeals, Federal Circuit c
Professor Timo Minssen, University of Copenhagen c
Aaron Nathan, Tensegrity Law Group LLP (2013)
Shoichi Okuyama, President, Okuyama & Sasajima c
Hon. Kathleen McDonald O'Malley, U.S. Court of Appeals, Federal Circuit (2013)
Janet A. Pioli, Brinks Gilson & Lione, Chicago (2013)
George Pappas, Covington & Burling LLP, Washington, D.C. (2013)
Susan Peacock, Lawyer – copyright & broadcasting c
David C. L. Perkins, consultant, London c
Richard Rainey, Executive Counsel, IP Litigation, General Electric Co. c
Professor Jason Rantanen, U. Iowa College of Law; contributor, *Patently O* blog (2013)
Hon. Teresa Stanek Rea, *fmr.* Act. Under Secretary of Comm.; Crowell & Moring LLP (2013)
Professor W. Keith Robinson, Southern Methodist University Law School (2013)
Professor Christal Sheppard, U. Nebraska; *fmr.* Counsel, House Judiciary Committee (2013)
Professor Jeffrey Samuels, *fmr.* Director, Akron IP Law Program c
Hon James S. Smith, Chairman, Patent Trial and App. Bd., U.S. Pat. and Trademark Off. (2013)
Professor Matthew A. Smith, George Washington Law School; Turner Boyd LLP (2013)
Hon. William F. Smith, *fmr.* Administrative Patent Judge; Baker Hostettler (2013)
Hon. Robert Stoll, *fmr.* Com'r for Patents; Drinker, Biddle & Reath . c
Louis W. Tompros, Wilmer Hale, Washington, D.C. (2013)
Philip Warrick, Klarquist Sparkman LLP, Portland, Oregon (2013)
Professor Harold C. Wegner, Foley & Lardner LLP c

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CONFERENCE SPONSORSHIPS AND REGISTRATIONS

**SECOND ANNUAL
NAPLES MIDWINTER PATENT LAW
EXPERTS CONFERENCE**

FEB. 10-11, 2014



Presented by:



The University of Akron
School of Law

Presented by:



Sughrue
SUGHRUE MION, PLLC | INTELLECTUAL PROPERTY LAW

Silver Sponsors:

BakerHostetler

HAHN  LOESER
attorneys at law

DICKSTEINSHAPIROLLP



BOEHMERT & BOEHMERT
ANWALTSSOZIELTÄT

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Key e-Mail Addresses for the 2015 Conference

Conference Organizer: Shannon F. Aupperle sfauppe@uakron.edu
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Program Content; speakers: Hal Wegner hwegner@gmail.com
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Conference Sponsorships

The Conference has no advertising budget and offers gratis registration to its faculty which is again expected to comprise at least fifty percent of the participants. Sponsorships ranging from \$ 3,000 to \$ 10,000 were the principal means by which we could put on the Conference while charging only about \$ 600 per outside registrant.

Sponsorship will permit a certain number of *gratis* priority registrations to the Conference. For sponsorship information contact Professor Samuels (jeffreysamuels@aol.com) with a cc to Shannon Aupperle (sfauppe@uakron.edu).

Registration Waiting List

Individual registrations will be accepted after it is determined whether spaces are available, once the sponsorship situation has been fully sorted out. (The Conference is designed to be capped at a total of 110 persons, maximum, including faculty.) To join the Registration Waiting List, please email Shannon Aupperle (sfauppe@uakron.edu).

Recommendations for Faculty

We are always looking for rising stars, exceptional newcomers to the teaching and practice professions who have made major writing or other contributions but have not yet received widespread recognition in the profession. Recommendations of such persons are always welcome. Please correspond with Hal Wegner, hwegner@gmail.com.

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Air Transportation To and From the Conference

Ft. Myers (RSW) Is the closest commercial airport, about 35-40 minutes from the Naples Beach Hotel by car. Nonstops on Saturday to Ft. Myers include Newark, Laganardia, Boston, Philadelphia, Detroit, Minneapolis and Washington, D.C.

Fort Lauderdale (FLL) is a smooth expressway drive through the everglades on alligator alley (i-75), with direct access to the interstate system right at the airport; approximately 90 minute travel time to the Naples Beach Hotel. The main advantage of **FLL** beyond additional destinations is that on occasion the greater competition at **FLL** means significantly lower airfares than at **RSW**.

International Access to RSW:

London: Atlanta (Delta) and Newark (United) connect to nonstops to RSW. Most convenient London access to London is from **RSW** via **ATL** (Delta).

Tokyo: Tokyo nonstops to Chicago (**ORD**), Houston (**IAH**) and Newark (**EWR**) all have nonstop connections to **RSW**.

Germany: Several times a week nonstop service from Düsseldorf to **RSW** is available on Air Berlin.

International Access Via MIA: Miami International (**MIA**) has nonstops to London (American; Delta) and other remote venues; **MIA** is approximately three hours from the hotel.

Post-Conference Same Day return to the North: The Tuesday session has been compressed into six non-stop hours including a working lunch so the conference will end by 2:00 PM to permit same day return to various major cities:

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Post-Conference Same Day Nonstops from Southwest Florida (Ft. Myers) **RSW** ~45 minutes from the Convention Hotel

information is based upon Expedia for Feb. 10, 2015 (search Aug. 31, 2014)

Newark	United	lv. 5:00 PM
LaGuardia	Delta	lv. 5:59 PM
Boston	Jet Blue	lv. 6:35 PM
Philadelphia	AA (UsAir)	lv. 7:30 PM
Detroit	Delta	lv. 4:50 PM
Minneapolis	Delta	lv. 6:20 PM; 9:15 PM
Houston	UA	lv. 6:10 PM
Charlotte	AA	lv. 7:10 PM
Washington, D.C. (Reagan)	JetBlue	lv. 6:05 PM
Hartford	JetBlue	lv. 3:35 PM
Atlanta	Delta	lv. 6:00 PM

Early morning nonstops to major Hub airports permit next morning connections to most cities:

Next Day Earliest Hub Non-Stops from Southwest Florida (Ft. Myers) **RSW** ~45 minutes from the Convention Hotel

information is based upon Expedia for Feb. 11, 2015 (search Aug. 31, 2014)

to Hub City	Airline	RSW Departure	Hub Arrival
Boston	Jet Blue	lv. 6:25 AM	ar. 9:28 AM
Chicago	AA	lv. 6:45 AM	ar. 8:45 AM
Chicago	UA	lv. 8:10 AM	ar. 10:16 AM
Houston	UA	lv. 6:30 AM	ar. 8:05 AM
Newark	UA	lv. 7:00 AM	ar. 10:04 AM
LaGuardia	Delta	lv. 8:00 AM	ar. 10:48 AM
Cleveland	UA	lv. 10:45 AM	ar. 1:21 PM
Charlotte	AA	lv. 6:35 AM	ar. 8:27 AM
Wash. D.C. (Reagan)	AA	lv. 6:55 AM	ar. 9:19 AM
Atlanta	Delta	lv. 6:45 AM	ar. 8:27 AM