Date: July 27, 2010

Committee Name: Committee 103 - Patent and Trademark Office Affairs - Patents

Chair(s) name and contact information:

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A. Committee Scope and Monitoring Policy Developments

1. Committee Scope- Does your committee scope accurately reflect the committee’s work and the reasons why someone would want to join your committee? If not, please suggest revisions. (NOTE: Revisions to your committee’s scope must be approved by your Division Chair, and by Council.)

The committee scope accurately reflects the committee’s work and the reasons why someone would want to join Committee 103.
2. **Subcommittees** - List any subcommittees within your committee and provide the name and contact information for each subcommittee chair.

   No Subcommittees have been created yet. We will create different subcommittees to address the issues that arise as the PTO proposes new rules and programs.

3. Describe how the committee will stay abreast of developments in the committee’s area of interest, including new cases, legislative proposals and policy initiatives.

   Committee 103 will continue to monitor general notices and proposed rulemakings which appear in the Federal Register. Committee 103 will also monitor informative and precedential opinions issued by the Board of Patent Appeals and Interferences as well as any guidelines issued by the PTO in response to new developments in the law.

B. **Committee Organization** - There are numerous ways in which a committee can be active, engage its members and develop policy and content. Below are some suggested activities. Think about which ways to engage your committee, and identify individuals who can be recruited to take the lead in each:

1. **Identify which person on the Committee Leadership team will have responsibility for the following and provide contact information.**

   a. Policy, Reports to the Section, Resolutions:

      Christopher Bullard (see above)

   b. Committee Webpage:

      Christopher Bullard (see above)

   c. Annual Review Content Submissions:

      Nathan Prepelka (see above)

   d. Other Publications (magazine articles; book ideas):

      Nathan Prepelka (see above)

   e. Programs, including stand alone programs, Spring Conference panels, Roundtables and teleconferences:

      TBD
f. Committee newsletter:

We do not plan to have a committee newsletter.

g. Membership Recruitment and Involvement (The Section will retain its membership and attract new members, particularly young members and members from diverse backgrounds, by delivering high value for the dues paid and making meaningful opportunities for participation and leadership available to all):

TBD

i. Public Outreach:

TBD

2. Describe specifically how Committee Leadership will communicate as a group during the Section year (via meeting, conference call or e-mail) and how often it will do so.

We plan to host monthly phone conferences, to discuss the progress of the various areas that require comment. More frequent calls will be held to address specific projects.

C. Activities and Projects- In light of substantive developments identified in section A, think about how you might develop content and activities on the subject.

1. Publications- Identify your goals with respect to the Annual Review and other ABA-IPL publications (Landslide; books):

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<tr>
<th>Project</th>
<th>Goal</th>
<th>Completion Date</th>
<th>Responsible Person</th>
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2. **Programs**- List all planned proposed programs; this includes stand alone programs, Spring Conference panels and teleconferences:

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<tr>
<th>Specific Program</th>
<th>Subject Matter</th>
<th>Proposed Date</th>
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3. **Roundtables**- List all planned proposed Roundtable programs. Indicate if one of your Roundtables may have sufficient appeal to become a CLE teleconference (which involves charging a free and providing written materials and CLE credit):

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<th>Specific Program</th>
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4. Other Activities and Projects - List any planned committee activities not described above:
American Bar Association Section of Intellectual Property Law
Midyear Committee Progress Report (2010-2011)

Committee Name and Number:
Patent and Trademark Office Affairs - Patents (103)

Report completed by:
Christopher Bullard, chair
Nate Prepelka, vice-chair

Subcommittees

Have you added or removed any subcommittees since completing your Committee Action Plan at the beginning of the year? If so, please detail below.

We currently have the following subcommittees:

1. Proposed BPAI Rules.
   a. Subcommittee Chair - Keisha Hylton-Rodic
   b. Scope - This subcommittee reviews and comments on the proposed changes set forth by the U.S. Patent and Trademark Office in Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals, 75 Fed. Reg. 69828 (November 15, 2010).

2. Updating the Classification System
   a. Subcommittee Chair - Will Jones, II
   b. Scope - This subcommittee considers modifications to the Patent Classification System (including replacement by a new International Patent Classification System) used by the United States Patent and Trademark Office.

   a. Subcommittee Chairs - Thomas Franklin and John Posthumus
   b. Scope - This subcommittee monitors and creates policy regarding the United States Patent and Trademark Office’s use of satellite offices.
4. The Updated KSR Guidelines.
   a. Subcommittee Chair - Janet S. Hendrickson
   b. Scope - This subcommittee monitors cases that may have an impact on the guidelines, and which the Section may want to bring to the United States Patent and Trademark Office’s attention. The subcommittee is putting together a CLE Round Table for Committees Day at the ABA-IPL Spring Meeting that will look at prosecuting patents post-KSR from three unique perspectives: (1) prosecuting chemical patents, (2) prosecuting electrical/mechanical patents, and (3) the litigation consequences of arguments made during prosecution.

5. Issues relating to Accelerated and Deferred Examination.
   a. Subcommittee Chair - Larry Pope
   b. Scope - This subcommittee monitors PTO initiatives relating to examination tracks and examination acceleration programs such as the Patent Application Backlog Reduction Stimulus Plan and the Green Initiative.

6. Pilot Program for Extended Time Period to Reply to a Notice to File Missing Parts of Nonprovisional Application.
   a. Subcommittee Chair - Keisha Hylton-Rodic
   b. Scope - This subcommittee discusses and tracks the use of the Notice to File Missing Parts procedure to extend the time period applicants have to file a non-provisional after filing a provisional application.

*Which of your subcommittees are working well? Which, if any, need assistance?*

So far, all of the subcommittees are doing a good job.
Policy Development

How is the committee staying abreast of possible developments in the committee’s area of interest and expertise?

We have created several subcommittees that monitor the various areas of the law that fall within the scope of Committee 103. Specifically, these subcommittees monitor general notices and proposed rulemakings which appear in the Federal Register. Committee 103 also monitors informative and precedential opinions issued by the Board of Patent Appeals and Interferences as well as any guidelines issued by the PTO in response to new developments in the law.

Has the committee developed any resolutions this year or are any in the planning stages currently?

The Committee has developed six resolutions this year, and at least two more are currently in the works.

Leadership Development

Have you identified any individuals within your committee who have become active or increased their voluntary responsibility, or any individuals whom you believe are good candidates for potential leadership positions? If so, please give names and examples below.

Both Jan Hendrickson and Keisha Hylton-Rodic have gone above and beyond with their efforts for Committee 103.

Jan Hendrickson is the chair of the KSR guidelines subcommittee, and is has been doing a great job putting together a CLE Round Table for Committees Day at the ABA-IPL Spring Meeting.

Keisha Hylton-Rodic has been an invaluable member of the committee, and has volunteered for several challenging tasks with fast turnaround times. Her work on the proposed BPAI Rules has been excellent.

Do specific individuals handle your committee homepage content, membership recruitment and outreach, or CLE development? If so, please list member names and responsibilities below.

We do not have a specific person in charge of CLE development, but we encourage all of our subcommittees to consider programming opportunities.
Committee Projects and Activities

Please list any projects, content development, or goals laid out in your Committee Action Plan that your committee has accomplished to date.

What is the status of current committee projects, substantive content development, or activities whether or not they are listed in the Action Plan?

Have you encountered any obstacles to implementing the goals or activities set forth in your Action Plan? If so are there ways the ABA Staff might assist you?

The ABA Staff has been outstanding.

Do you have plans for future activities or content development? If yes what are the rough descriptions and deadlines?

This year Committees 101 (Patent Legislation) and 103 (Patent and Trademark Office Affairs) of the ABA-IPL will be jointly hosting a panel discussion on the ever changing landscape of patent reform at the Spring ABA-IPL Conference:

Reform Inside and Outside the USPTO
Thursday, April 7, 8:30 – 10:00 a.m.
Crystal Gateway Marriott, Arlington Ballroom 4
Moderators:
Orion Armon, Cooley LLP
Christopher Bullard, Oblon, Spivak, McClelland, Maier & Neustadt, L.L.P.

This will be the premier patent panel that kicks off the conference, and we hope it will be very well attended. Our goal is to include two PTO insiders, one or more representatives from Congress, and one or two heavyweights from the high tech and pharma/biotech industries. So far, we have gotten a commitment from Acting Administrator for External Affairs Paul Salmon, and we are seeking a replacement for Deputy Director Sharon Barner, who previously agreed to speak, but has recently resigned from her position at the PTO.

We are now turning our focus to recruiting Congressional representatives who may have an interest in participating in a panel discussion on patent reform. In view of the recent reorganization of the House Judiciary Committee to include a Subcommittee on Intellectual Property, Competition, and the Internet, we believe a member of the House Judiciary Committee would be a good match for this opportunity.