

Fourth Biennial Patent System Major Problems Conference Saturday, May 22, 1993

Transcript

"INTRODUCTION TO CONFERENCE"

MR. RINES: Thank you very much, Bob. Thank you all for coming. It's with pride, but a little bit of trepidation, that I look at the State of New Hampshire and see the trend happening that a substantial number of our law school graduates, comparatively speaking, are among the new judges going on the State Bench and the new President of the New Hampshire Bar including the first woman lawyer with the Vice-President also a graduate of the Law Center. This, of course, is a source of pride. I had hoped, however, that we would be more of a national law school. And, of course, in the patent and intellectual property field, that's precisely what we are. But the responsibility of taking over the State of New Hampshire so to speak, is an awesome one. And I think, Bob, that while we're trying to stay small, the name of the game is quality. And I think one thing that law schools generally, quite evident from the Congress, are perhaps not paying enough attention to, is the caliber, the morality, the sense of ethics that candidates to be lawyers should have. I don't think it's enough that you're not a crook. So, we have a lot of work to do, I believe, to make high quality lawyers from people who will respond to the needs of today's society, which isn't necessarily to lop litigants' heads off, but to solve problems. I would like to cite an example for our law students and others who are here. If we are to survive as a nation and if we are to get our fair share of the world's markets, we must obviously have a system where the lawyers are representing potential deals as well as their clients. And that, perhaps, is the final dream that I have had for Franklin Pierce Law Center. Yes, we've achieved some level of competence. Our intellectual law journal and research activities leave a lot to be desired. I was talking with Hal this morning about getting closer to George Washington and others to make these things substantive. But many people, including some among you, have been very responsive to our belief, which we share with Tom Arnold, though with some differences, that for many of the disputes and potential disputes in our area, we should be solving them otherwise rather than in the courtroom. So, I think some of you know that this fall we will be launching a mediation institute, an international one. Presently, we're calling it ACCORD, A Center for Conflict Obviation and Resolution of Disputes. And we have great interest really on the conflict obviation part. At the Law Center, for some five years now, we have been engaged in mediation programs, not in intellectual property, but in the small claims area, the domestic relations area; and the success is absolutely mind boggling. The contentment of the parties is something that is a message that they're giving to us lawyers. There are other ways than win and lose. So, we're sticking to our

last. ACCORD will only be for intellectual property and related technological disputes. We're starting mediation training this fall. We're going to be very careful whom we train. It will not be lawyers exclusively. It will be professors, engineers, scientists and technical business people and we will establish a list of potential mediators. But our philosophy is very different, Tom Arnold was on our founding committee, as is Federal Court of Appeals Judge Pauline Newman, retiring Chief Judge Shane Devine of our local Federal bench, and Judge William Batchelder from our State Supreme Court. Already in the State of New Hampshire, if you file a lawsuit, any kind of a lawsuit, you may get a nice piece of paper from the Court saying, "Fine. I recognize it, but you have no standing here until you try mediation, arbitration or other means of settlement and report back why it didn't work." And our concept is to try to develop that expertise and that family of trained, neutral people who could be available to try to orient those who think they might be getting into a problem, rather than proceeding after people have become polarized. We're delighted that Bob Shaw has been able to receive from a good number of our PTC corporations the promise to try mediation. You know, maybe it won't be our life-blood patent that we would entrust to this, but we'll try the concept. Bob and I just returned from Japan, Korea and Taiwan where our alumni from the MIP program have been our catalysts and where now the Japan Patent Association and its organization, PIPA, want to collaborate with us and have ACCORD implement PIPA conciliation so that Polly Newman's dream can actually take place. So, there's international interest in doing this. We certainly want to call on you for ideas and for support. This is a true invention, the way we want to do it. We have no fixed rules of mediation. That's just the way we want it. We want to help the parties solve their own problems. So, that's the end of the dream, Bob. If we can pull this off, I think we will have been of service, not just to the United States, but to the world. That really is in the context of the Franklin Pierce Law Center. Thank you all for coming.

MR. BENSON: That's the end of your dream for this year. I'd like to call on Karl Jorda to make a couple remarks. Karl really is the guy, together with his staff, who organized this meeting and he has a few announcements relative to the rest of the program.

MR. JORDA: Thank you, Bob. Good morning everybody. Just a couple of housekeeping items. There is some literature out on the table in the reception area that will support in writing and as tangible evidence of what Bob Benson, Bob Viles and Bob Rines have talked about. In particular, there is a very recently published Intellectual Property Bulletin describing all of the efforts in the intellectual property field of Franklin Pierce. There are some flyers about upcoming programs, a recent issue of IDEA and brochures about the Master of Intellectual Property Program. If you don't have that, you might pick it up and read it at your leisure, perhaps on the plane back. As far as lunch is concerned, we will break according to the schedule at noon, give or take a few minutes, depending on where we stand with the program and the progress we have made. There will be a buffet luncheon set up in the back here and that will make it possible to have lunch within one hour. Any one of you who is going to be here tonight, and not rush away after this conference, please let us know, perhaps by giving your name to the

reception staff outside here. We will have a dinner party tonight for those of you who are here at the Bedford Village Inn which I understand is a very nice place and not too far from here. So, please put down your names. We could assemble in the lobby of this hotel at 6:30. Thank you.

MR. BENSON: Thank you, Karl, and thanks for all the work you and your staff have done to put this meeting together. I want to thank each and everyone of you for coming out here to New Hampshire for this conference. I would like to start by going around the room and have each one of you introduce yourself, where you're from and a little bit about yourself. We'll start with Ron Myrick.

MR. MYRICK: I'm Ron Myrick. I'm local, basically, at least if you consider Massachusetts, south of the border, local, Boston. I'm with the firm of Fish & Richardson and formerly of Digital Equipment.

MR. WITTE: Dick Witte. I'm from Cincinnati, Ohio. I'm counsel with Morgan & Finnegan and formerly with Proctor & Gamble and this is my fourth conference.

MR. YOUNG: My name is Alan Young. I am currently a student at Franklin Pierce Law Center and I am working with the firm of Young & Thompson in Arlington, Virginia.

MR. GURRY: Good morning. Francis Gurry from WIPO, Geneva, Switzerland.

MR. HENNESSEY: Bill Hennessey, Franklin Pierce Law Center.

MR. WEGNER: I'm Hal Wegner with George Washington. And as of April 7th, Director of the Dean Dinwoody Center for Intellectual Property Studies and Freedom of Expression.

MR. BALMER: Norm Balmer, Union Carbide Corporation.

MR. GHOLZ: Chico Gholz, Oblon, Spivak, McClellan, Maier & Neustadt, Arlington, Virginia.

MR. BARDEHLE: My name is Heinz Bardehle. I am a patent attorney living in Munich. I was involved to some extent in the development of the harmonization treaty as a member of the German Delegation.

MR. CHOW: My name is Frank Chow. I'm with the firm Buchanan Ingersoll, Princeton, New Jersey.

MS. SHAPER: Sue Shaper with Pravel, Hewitt, Kimball & Kreiger in Houston, Texas.

MR. WAMSLEY: Herb Wamsley, Executive Director of Intellectual Property Owners Association in Washington.

MR. RINES: Bob Rines.

JUDGE LOURIE: I'm Alan Lourie, Judge on the Court of Appeals for the Federal Circuit. And before I was on the Court, I was with Smith, Kline & Beckman for many years.

MR. BENSON: I'm Bob Benson from Bancroft Corporation in Waukesha, Wisconsin. I'm also a member of the Executive Board of the Franklin Pierce Law Center.

MR. JORDA: I'm Karl Jorda, faculty of Franklin Pierce Law Center.

MR. MACKEY: I'm Len Mackey with the firm of Davis, Hoxie, Faithfull & Hapgood, and formerly with ITT Corporation.

MR. BROOK: Good morning. I'm David Brook with the law firm of Hamilton, Brook, Smith & Reynolds in Lexington, Massachusetts.

MR. CROOKS: I'm Bob Crooks, a sole practitioner in Durham, New Hampshire.

MR. EVANS: I'm Larry Evans and continuing the trend around the table, after 23 years with BP America and BP Chemicals, I'm now with William, Brinks, Olds, Hofer, Gilson and Lione in Chicago.

MR. PRAVEL: I'm Bill Pravel with Pravel, Hewitt, Kimball & Krieger in Houston.

MR. JUDA: I'm Walter Juda, not a lawyer, but a chemist. I started two "patent-based" companies.

MR. BRUNET: I'm Bill Brunet from New York with Fitzpatrick, Cella, Harper & Scinto.

MR. WEBSTER: I'm Slim Webster from the Eastman Kodak Company.

MS. FERBER: I'm Rochelle Ferber. I'm a 1993 Franklin Pierce graduate and have been a patent agent for the past four years. I have a sole patent practice.

MR. ARMITAGE: I'm Bob Armitage. I'm with the Upjohn Company in Kalamazoo, Michigan.

MR. FIELD: Tom Field, Franklin Pierce Law Center.

MR. GRISWOLD: Gary Griswold, 3M, St. Paul.

MR. PEGRAM: John Pegram, Davis, Hoxie, Faithfull & Hapgood, New York City.

MR. THOMPSON: Bill Thompson with Caterpillar and still with Caterpillar, Peoria, Illinois.

MR. SAMUELS: I'm Gary Samuels. I'm with W.L. Gore & Associates in Newark, Delaware.

MR. BERRIER: I'm Bud Berrier, G.E., Fairfield, Connecticut.

MR. DUNNER: I'm Don Dunner, Finnegan, Henderson, et al. Washington, D.C.

MR. KLITZMAN: I'm Maury Klitzman, a sole practitioner in Bethesda, Maryland.

MR. SHAW: Bob Shaw, Professor at Franklin Pierce Law Center.

MS. STROBEL: Sylvie Strobel. Research Fellow at the Max-Planck Institute for Foreign and International Patent, Copyright and Competition Law in Munich, Germany.

MR. GOLDSTEIN: I'm Steve Goldstein. I'm with the Patent Division of Proctor & Gamble in Cincinnati.

MR. BENSON: Well, thank you all. You can see that we have a wide variety of people with different interests. You were specifically sought out and invited to this program because of your interest in the subject matter and your expertise relative to the subjects which are being discussed. The format of the program is that each subject will be introduced by one or two speakers. Then, we will have individual comments from any and all of you who are here. The first subject, is the jury trial issue. It's a hot issue. It's not going to be resolved easily. Alan Young from Franklin Pierce has done some research on jury trials. Alan will start off the program discussing what he has found and some of his recommendations. Al.