



BOULDER COUNTY BAR NEWSLETTER

JUNE 2011

DESK GUIDE FOR INTELLECTUAL PROPERTY RESOURCES

BY ABIGAIL SMITH AND LIBBY HUSKEY

IP attorneys have no shortage of online resources that can be extremely helpful in the day-to-day practice of law. Because half the battle lies in simply being aware of available resources, how they may be accessed, and the type of information they provide, the summary below serves as a helpful desk guide for IP attorneys in finding the information they need, when they need it:

PATENT

Discussion and Analysis **Patently O**

(<http://www.patentlyo.com/>): Discussion and analysis of recent patent decisions, law changes and other items of interest to those involved in the intellectual property arena, and primarily, patent law.

JuriScientia

(<http://juriscentia.com/about/>): Analysis and discussion of the areas in which science and law intersect, those areas where the law promotes science or holds it in check, as well as

those areas in which the law makes use of scientific developments.

All Thinks Pros

(<http://www.allthingspros.blogspot.com/>): Covers a variety of patent prosecution topics, including strategies for handling claim rejections, often discussed in the context of BPAI decisions. Also includes discussion of procedural topics from the MPEP such as after-final, RCE, and restriction practice.

Practical Advice

Patentably Defined

(<http://patentablydefined.com/>): This blog provides practical prosecution strategies for communication with the USPTO. The author draws from the MPEP, case law and USPTO guidelines.

Research

PriorSmart Litigation Alerts: A daily email including all recent patent related complaints. A .pdf copy of each complaint is accessible from a

link in the email. PACER information for each case is also provided.

Google Scholar

(<http://scholar.google.com/>): Provides free case law searches with proper citation. Provides free article searching.

Google Patents

(<http://www.google.com/patents/>): Search over 7 million patents by key word, patent number, title, inventor, assignee, U.S. classification, international classification, status (issued patent or patent application), patent type, issue date or filing date.

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MARK YOUR CALENDARS

BCBA Annual Meeting and
Awards Dinner on Thursday, June 2
Folsom Center Plate at 5:30 PM
Cost \$55 per person
Firm Tables (8) \$415

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CALENDAR OF EVENTS

Pre-registration is required for all BCBA CLE programs. Register by e-mailing lynnne@boulder-bar.org, or pay online with a credit card at www.boulder-bar.org/calendar. You will be charged for your lunch if you make a reservation and do not cancel prior to the CLE meeting. BCBA CLE's cost for members is \$20 per credit hour, \$10 for New/Young lawyers practicing three years or less. \$25 for non-members.

Thursday, June 2
Annual Meeting and Dinner
Folsom Stadium Center Plate
5:30 cocktails, 6:15 buffet dinner
\$55 per person

Thursday, June 16
Criminal Law
New File Sealing Statute
Presenter: Kristan Wheeler
Noon brownbag in Courtroom C
1 CLE \$20,
\$10 for new/young lawyers

Thursday, June 16
Family Law
Identifying and working with
"Positional" clients;
seeing your clients and
challenging cases differently.
Presenter: Joanne Baum, PhD,
LCSW, CAC III
Noon at Caplan and Earnest
1800 Broadway, Suite 200
1 CLE \$20, \$10
for new/young lawyers
Lunch \$10
Available in Longmont at Flanders,
Elsberg, Dunn et al
Call the bar office to reserve space.

Tuesday, June 21
Paralegals Luncheon
E-Discovery
Presenter: Shari Bjorkquest
Noon at Caplan and Earnest
Lunch \$10

Monday, June 27
The Law Shop & BCBA
6 - 8 PM at the YMCA, Goff Room
"Navigating Post-decree Divorce and
Family Law Matters."
Mag. Brodsky and Monica
Haenselman, Family Courty Facilitator.
This is 3rd in a series of summer
seminars."Goff" room.
Light refreshments will be served.

Notes from The Law Shop's May Seminar, "How Can I Make the Most of Mediation?"

A lively roundtable discussion took place about the basics of successful mediation. The panel, comprised of local mediators and attorneys (Mary Margaret Golten, Susan Spaulding,, Michael Morphew, and Jim Christoph), discussed essentials such as: what to expect from mediation, how to prepare for mediation, how to navigate a mediation session, and how to reach an acceptable partial, if not global, resolution of one's case.

Specifically, the panel provided insight regarding questions ranging from "What is mediation?" to "How should I choose a mediator?", "What type of materials should I submit to the mediator before our session?" and "Is a resolution reached during mediation binding?". Each topic was addressed by the panel with the concerns of both pro se litigants and attorneys in mind.

Attorneys attending the session earned 1 CLE credit.

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A LIFE WELL LIVED

BY CATHRYN L. HAZOURI

Richard McLean, former judge in the Twentieth Judicial District, died May 7, 2011 at home with his wife, Edie, by his side. A Denver native, Dick received his J.D. from the University of Colorado School of Law in 1958 and clerked for Judge Jean Breitenstein of the U. S. Court of Appeals for the Tenth Circuit.

Dick's law practice focused on defense of product liability claims as well as professional liability, architectural and engineering litigation, insurance law and other tort claims. He authored the Colorado Ski Safety Act. Dick tried numerous cases in state and federal courts and argued appeals at all judicial levels including the U.S. Supreme Court. He was a partner at Sheldon, Bayer, McLean & Glasman, P.C. that became Bayer, McLean, Carey & McGee, P.C.

Dick was involved in the legal community. He was a member of the American, Colorado, Denver and the Boulder County Bar Associations. He was a Fellow of the American College of Trial Lawyers and President of the Colorado Defense Lawyers, 1978-1979. Dick served on the Board of Trustees for the Boulder Bar Foundation.

During his tenure as a judge, Dick showed his deep interest in the welfare of child victims and children accused of violations of the law. He believed strongly that juvenile offenders could be rehabilitated. In 1995, he received the Annual Outstanding Service to Children Award from the Boulder Interdisciplinary Committee on Child Custody.

Until Governor Richard Lamm selected him for the bench in 1980, Dick was very active in politics. He chaired the Boulder County

Democratic Party from 1955 to 1956. He was elected to the Boulder City Council in 1970 and served as Mayor of Boulder, 1972 – 1973. This was a turbulent time of protests against the war in Viet Nam and Dick responded to threats against protesters by gun toting residents by intervening personally.

After retiring from the bench, Dick returned to political life. In 1998, Dick was elected to represent District O on the Regional Transportation District Board of Trustees and served until 2006. His colleagues elected him to be the Board's treasurer.

Dick McLean was an amateur astronomer. He loved to travel including traveling to Romania and

Costa Rica to view solar eclipses. He was an avid skier, hiker, bicyclist and he loved walks on Boulder's Open Space.

A Celebration of Life will be held on Saturday, June 18, 2011, at 4:00 p.m. in Grusin Hall, Imig Music Building, University of Colorado-Boulder. A reception in the rehearsal hall will follow the service. Donations in Dick's name may be made to the Nature Conservancy, 2424 Spruce St, Boulder, CO. 80302.

Cathy Hazouri is the past President of the Colorado Trial Lawyers Assn., former Executive Director of the ACLU of Colorado & has just started her consulting firm, New Century Solutions, LLC to help corporations and firms with corporate social responsibility.



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IP RESOURCES *(continued from page 1)*

Free Patents Online

(<http://www.freepatentsonline.com/>) Search patents and, more recently, non-patent literature via a powerful search engine that allows for word stemming, proximity, relevancy ranking, and search-term-weighting searches. Download and/or print issued patents and printed publications in PDF format.

Pat2PDF

(<http://www.pat2pdf.org/>): Provides quick and easy access to .pdf files of patent documents and allows for numerous documents to be requested at once.

Casemaker

(<http://www.cobar.org/casemaker/>): This research tool is accessible to all Colorado Bar Association members free of charge. Casemaker includes state and federal libraries to assist in research, among other tools.

The William A. Wise Law Library at CU-Boulder: All BCBA members can take advantage of FREE access to Lexis and Westlaw at the CU Law Library. Simply go to the Reference Desk and inform them that you are a member of the Boulder County Bar Association and they will tell you exactly what you need to do to access Westlaw and Lexis. Printing

is 10 cents a copy. Copying a book is also 10 cents a copy, but you will have to buy a copy card your first time in for \$1. If you need to call the library at Wolf, dial 303-492-1411 and ask to be transferred there.

Chisum on Patents

(available on CD-ROM, online through LexisNexis, or in Paper Format): The most cited treatise in patent law today. Provides analysis of all issues pertaining to patent law, including doctrines, rules, and case law relating to patentability, validity, and infringement. Helpful whether drafting and prosecuting a patent application, appealing a patent application denial, or litigating patent infringement.

International Patent Copies, Information and Translations

Espacenet

(<http://worldwide.espacenet.com/>): The European Patent Office provides a worldwide patent database. Obtain copies of original patent documents, abstract information, and machine translations for many patent documents here.

Industrial Property Digital Library

(http://www.ipdl.inpit.go.jp/homepg_e.ipdl): The Japanese Patent Office provides original copies of many patents and patent applications. Machine translations for many of the documents are also available here.

Canadian Intellectual Property

Office (<http://www.cipo.ic.gc.ca>): Search the Canadian patent, trademark, copyright and industrial design databases here. Obtain copies of these items free of charge.

State Intellectual Property Office of the People's Republic of China

(http://www.sipo.gov.cn/sipo_English/): Search for Chinese Patents here. Machine translation is available for many patents.

Patentscope Database Search

(<http://www.wipo.int/patentscope/en/dbsearch/>): This service of the World Intellectual Property Organization provides access to a number of materials, including:

International Applications (PCT) –

search approximately 1.8 million published International Patent Applications. You can also view the latest information and documents available to the International Bureau.

National & PCT Collections –

search the PCT database and the patent collections of ARIPO, Argentina, Brazil, Colombia, Costa Rica, Cuba, Guatemala, Israel, Mexico, Morocco, Panama, Peru, Republic of Korea, Singapore, South Africa, Spain, Uruguay and Vietnam.

External Databases – search patent databases of over 25 National Offices.

(continued on page 10)

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Jim Christoph, JD

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PRESIDENT'S PAGE

DON'T WORRY BE HAPPY

BY RICH IRVIN



And Bobby McFerren continues:
"In every life you can expect some trouble. If you worry you only make it double."

I think that should be the mantra for all lawyers, not just the Boulder County Bar. It's important to note that Bobby McFerren is saying "don't worry," not "don't act." As lawyers we can get bogged down by worry. Worrying can incapacitate us so we don't act in our client's best interest. Being happy frees us to take action. Since the practice of law is, to state the obvious, stressful, being happy frees us to have a real life.

Ralph Carr, whom I have mentioned on several times and whose name will grace the Supreme Court Complex, didn't worry. Instead, as Governor of Colorado, he acted decisively and damned the consequences. By doing so he torpedoed his political career but he ultimately triumphed. More importantly, he could live with himself.

In the practice of law we can get bogged down by our trials and tribulations with our clients and opposing counsel. Worrying about our cases creates impediments for a productive practice "What! Me Worry?" Alfred Newman (Mad Magazine). To not take

ourselves so seriously in the practice of law thus frees us. As another movie points out, "Look on the Bright Side of Life." (Life of Brian)

In the practice of law, we deal with real human beings as opposed to engineers or doctors who deal with absolutes. That also is the fun of practicing law, the Human Comedy. As theologians have pointed out, when God created man, he/she showed us that he/she has a sense of humor.

For my columns this year I have used movies as a metaphor for the practice of law. I could write several of columns about movies that mirror our lives. Ann Mygatt suggested I use *True Believer* as such a movie. It's about a burned out lawyer who gets energized and reinvigorated by an innocent (maybe) man previously convicted of murder. The conviction is reversed and the case retried. With the help from a last minute witness, he proves

his client is innocent. Usually when I try a case the last minute surprises are on me. I still remember Phil Miller (then a DA) telling me minutes before trial that my perfect client (with a wife and a good reputation) charged with sexual assault, had in fact escaped from prison in Indiana where he was serving a life sentence for several sexual assaults. But *True Believer* was fun; justice could be obtained for an innocent man, if you don't worry, be happy and keep trying and digging.

Dale Johnson suggested *Morgan*, a mid-1960's English movie. It is about a man in a divorce who won't face reality. Instead he escapes into a fantasy life where he is a gorilla. A gorilla is a fearsome creature that is in reality very gentle. He Eats, Shoots and Leaves. (Ask me and I will tell you the whole joke.) He acts out his fantasy, kidnaps his wife, is held in contempt and ends

(continued on page 8)

DO YOU HAVE A CRIMINAL POST-CONVICTION CASE?



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Post-Conviction Cases

IP RESOURCES *(continued from page 4)*

Patent Analysis – this service provides, “through technology reports as well as pre-defined searches of the latest published PCT international patent applications, a quick visualization of developments in selected technologies.”

Korea Intellectual Property Rights Information Services

(http://eng.kipris.or.kr/eng/main/main_eng.jsp): The Korean Intellectual Property Office provides many patents and published applications, including English translations for a fee. This resource has become more valuable as the selection of Korea as the searching authority for PCT applications has gained popularity.

TRADEMARK

Research

McCarthy on Trademarks and Unfair Competition (available on CD-ROM, online through Westlaw, or in Paper Format): Explains and analyzes trademark law through analyses of cases and statutes, including how-to advice on register-

ing trademarks, inter partes proceedings, appeals, and remedies. Also examines defenses in trademark and unfair competition and litigation and analyzes significant changes in federal trademark law.

International Trademark Association

(<http://www.inta.org/Pages/Home.aspx>): Provides a variety of openly accessible and membership-only resources and how-to guides for both domestic and international trademark filing, prosecution, registration, maintenance, and enforcement.

Trademark Monitoring

Feathers Software

(<http://www.oppedahl.com/feathers/>): This free software allows you to monitor the status of any U.S. trademark application. Simply add the serial number and Feathers® can automatically send an email notification to one or more email addresses whenever the status of an application or registration changes.

Goosefeathers Software

(<http://www.oppedahl.com/goosefeathers/>): This free software allows you to monitor the status of any Canadian trademark application.

COPYRIGHT

Research

Nimmer on Copyright (available on CD-ROM, online through LexisNexis, or in Paper Format): Provides comprehensive review and analysis into copyright protection in the digital age as well as discussions of traditional copyright issues. Interprets all provisions of the Copyright Act and includes thorough coverage of the Digital Millennium Copyright Act.

United States Copyright Office

(<http://www.copyright.gov/>): In addition to an electronic registration system, the US Copyright Office website provides tutorials on how to register a work and search copyright records. The website also provides circulars, brochures, forms, and factsheets encompassing a wide range of copyright issues.

ALL IP

Listserves

(<http://www.oppedahl.com/listserves.html>): Puzzled by a rejection or objection from the USPTO? Discovered an error and not sure how (or if) you can correct it? Ask your fellow intellectual property colleagues! Oppedahl Patent Law Firm hosts listserves on a variety of topics of interest to intellectual property professionals, including PCT, PAIR, EFS-web, Madrid Protocol, copyrights, trademarks

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LAWYER ANNOUNCEMENTS



**LASZLO INDUCTED INTO THE
LITIGATION COUNSEL OF AMERICA**

Boulder attorney Theodore E. Laszlo, Jr., of Laszlo & Associates, LLC, was inducted into the Litigation Counsel of America on May 5 at the LCA's Spring Conference and Induction of Fellows in Laguna Beach.

The Litigation Counsel of America is a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. The LCA is aggressively diverse in its composition. Established as a trial and appellate lawyer honorary society reflecting the American bar in the twenty-first century, the LCA represents the best in law among its membership.

BOULDER COUNTY BAR FOUNDATION

**WELCOMED NEW FELLOWS
AT THE APRIL DINNER**

**DANA BICKHAM,
STEPHANIE BRENNAN
STAN GARNETT, JUDSON HITE
ARI KODECK, WHITING LEARY,
CINTHIA MANZANO,
JUSHUA MAXIMON,
CRIAG SMALL AND KEITH OLIVIA**

**WELCOME TO THE NEW BOULDER COUNTY
BAR FOUNDATION TRUSTEES**

**SONNY FLOWERS, ANTON DWORAK
AND JOAN NORMAN**

AND

**THANK YOU TO THE RETIRING TRUSTEES
ROBBIE BARR, DAVID DRISCOLL AND
WALLY GRANT**

**2011 Rocky Mountain
Director Peer Exchange
Tuesday, June 21 8 AM - 5 PM
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Join other Directors and General Counsels of public and private companies to exchange valuable experiences, challenges and opportunities in leading America's companies.

Contact: Tracy Houston at
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or www.RockyMountainDPE.eventbrite.com
for information and registration

THANK YOU TO THE LAW DAY VOLUNTEERS

**WHO HELPED ANSWER LEGAL QUESTIONS
AT THE FARMERS MARKET ON APRIL 30.**

**Karl Kumli
Tucker Katz
Judson Hite
Rich Irvin
Ruth Irvin
Doug Cook
Star Waring
George Robertie
Josh Anderson
Bruce Weiner**

PRESIDENT'S PAGE *(continued from page 5)*

up dressed as a gorilla. His ex-wife remarries, he destroys the wedding dressed as a gorilla, and he ends up (rightfully) in a mental hospital. Dale assures me that this is an accurate representation of many domestic cases. Several days after I saw this movie, I had a client who was so unrealistic that I asked him if he had a gorilla suit.

There are many great movies that I wish I had time to discuss. So many movies, so little time. The great trial movies like *Witness For the Prosecution*; (witness who is not who she says); *Anatomy of a Murder*; (lawyer asks one question too many and the client stiffes the lawyer for his fee); *Twelve*, a Russian movie that is a remake of *Twelve Angry Men*; (Greg Martin saw this and highly recommends it); *The Devil and Daniel Webster*, which is about the jury selection from hell; (kind of like jury selection in El Paso County); and of course *My Cousin Vinny*; how to qualify a witness as an expert. Also great cross-examination ("Are those instant grits?"). Another favorite is *Disorder in the Court* (the Three Stooges). And my favorite, the trial of the witch in *Monty*

Python and the Holy Grail. ("What evidence do you have that she is a witch? She turned me into a newt.") She is proven to be a witch because she weighs the same as a duck. You need to see it to understand this.

What all these movies have in common is that at their core, they are about the law and human interaction, how the law is used as a tool to settle conflict in a neutral arena. Everyone who practices law of any kind is involved with people. There is no area of the law that is immune from human foibles. That's what makes it both difficult but also fun, it's never the same. In every business transaction, there are human beings on each side. Government attorneys are dealing with human disputes. Corporate attorneys are dealing with a collection of people but in the end with a human representative of the corporation. Patent lawyers are dealing with individuals with new ideas. Water law is at its essence the distribution of a scarce resource between people. That becomes apparent in the great water law movie, *Milagro Beanfield War*.

Sometimes the practice of law is magical realism. The bottom line is that no matter what kind of law we practice, it always deals with human interactions.

I had an epiphany several years ago. I was in the old Denver Courthouse and I saw a clerk pushing a cart full of files. I don't know if it was criminal, civil, domestic or probate; it didn't matter. It struck me that each file represented a human being, a portion of their life was in that file like a snapshot. I mentioned my observation to the clerk; I thought she might call security. Instead, she said once she realized that her court was not only dealing with cases but instead with people, it made her job worthwhile, not just a job, but a trust.

I think that's why movies about law are like a mirror. When we watch these movies we always see something familiar. They also help lighten the load. They are fun. To be better lawyers we need to have fun -- not worry, but act and be happy.

It has been a good year. I've had fun pontificating. The Irvin family motto is, "It's better to have a strong opinion than to be right." As Joe Walsh sang "It's been a good life so far" and as the Von Trapp Family sang at the end of *Sound of the Music*, "Farewell Goodbye, Auf Wiedersehen, Adieu, to you and you and you and you and you! Goodbye."

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PRO BONO PAGE

Pro Bono Referrals

Sixteen cases were referred during April. Thank you to the following attorneys:

Donn Alspaugh
Josh Anderson
Howard Bernstein
Christopher Bosch
Elizabeth Connell
Mary Louise Edwards
Christopher Ford
Peter Jarldane
Curt Rautenstrauss
Martha Ridgway
Rick Samson
Mary Street

Pro Se Program Volunteers

Sheila Carrigan
M.L. Edwards
Lauren Ivison
Tucker Katz
Michael Morphew
Leonard Tanis

Mediators

The following mediators accepted a pro bono case in April:
Steven Meyrich

BCAP Volunteers

Thank you to the following attorneys who accepted pro bono referrals for the Boulder County AIDS Project in April:

Paul Bierbaum
Julia Robinson

Pro Bono Corner

Interested in a Pro Bono case?
Please call Erika at
303-449-2197.
CLE credits available for
pro bono service.

**Boulder County
Bar Association
Professionalism Committee
On-Call Schedule**

June 6	Bruce Fest	303.494.5600
June 13	Trip DeMuth	303.447.7775
June 20	Lee Strickler	303.443.6690
June 27	Mark Langston	303.440.9684

The Carriage House
Community Table volunteers were
extremely appreciated
for their service on May 31.

Over 80 people were served dinner
and the team was superb.

Sarah Boulden
Joe Rosenblum, Sarah Bergeron,
Ran Mali Bopitiya,
Kristin Engelke, James Woody,
Ann Rhodes, Dave Pacheco,
Dave Cheval and Dan Fredrickson.
Thanks to Chris Lane for coordinating.

Call the bar office for other volunteer opportunities.

IP RESOURCES *(continued from page 4)*

and TARR. USPTO employees lurk on the list and have been known to provide advice, and sometimes action, based on a questions to the listserv!

BNA

(<http://www.bna.com/products/ip/>): Provides numerous products for up-to-date information and guidance on all aspects of trademarks, patents, and copyrights, from traditional issues to newly emerging issues in relation to Internet and e-commerce law. Electronic publications include, to name a few, the BioTech Watch,

Computer Technology Law Report, Electronic Commerce & Law Report, IP Law Resource Center, Patent, Trademark, & Copyright Journal, Patent Trademark & Copyright Law Daily, and the World IP Report.

Abigale Smith and Libby Huskey are co-chairs of the BCBA Intellectual Property Law Section. Abigale is an associate at the Oppendahl Law firm, LLC and Libby Huskey is an associate at Marsh Fischmann & Breygogle LLP.



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