



# SDIPLA News

## SDIPLA Welcomes BIOCOM President and CEO Joe Panetta

At the last SDIPLA meeting this term, BIOCOM President and CEO J. Panetta will discuss how the future of biotechnology will be shaped by the Obama Administration and the current Congress.

SDIPLA Elections for the 2009-2010 term will be held. Your participation is welcome.

***Please join us on Thursday, June 11, 2009  
at the **La Jolla Hyatt*****

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Board Nomination	4-5	6:00 p.m.—9:00 p.m.	
Internet Sightings	5-7	La Jolla Hyatt	
Advertisements & Job Notices	8	3777 La Jolla Village Drive	
		La Jolla, CA 92037	

#### Date/Time/Location:

#### Notes:

This is a Thursday dinner meeting.

Elections will be held

#### Directions:

From I-5 exit La Jolla Village Dr.;  
Head east on La Jolla Village Dr.;  
Hyatt is on right.

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Sarah Burrows

**UPCOMING EVENTS**

**June 11th:** La Jolla Hyatt  
J. Panetta, CEO of BIOCOM  
will discuss the Obama  
Administration's impact on  
Biotechnology  
plus annual elections

Online registration for this events is now avail-  
able at: <http://www.acteva.com>

The link is at: <http://www.acteva.com/booking.cfm?bevaaid=182742>. SDIPLA mem-  
bers: \$55.00; Nonmembers: \$65.00

**June 12-14:** SPRING SEMINAR  
SDIPLA / LAIPLA  
Lake Arrowhead, CA

***Please Join Us For These Exciting Events***

The SDIPLA thanks our Sponsors for the  
monthly meetings:

**Knobbe Martens Olson & Bear LLP**  
[www.kmob.com](http://www.kmob.com)

**Perkins Coie LLP**  
[www.perkinscoie.com](http://www.perkinscoie.com)

**Townsend and Townsend and Crew LLP**  
[www.townsend.com](http://www.townsend.com)

(listed alphabetically)

# Reservation Form for June 11, 2009 Dinner Meeting

## Featuring Joe Panetta

### President and CEO of BIOCUM discussing how Biotechnology will be impacted by the current Administration and Congress

**Thursday June 11th  
Dinner Meeting**

**La Jolla Hyatt**

Registration starts at 6:00 p.m.  
Cocktails at 6:00 p.m.  
Dinner starts at 7:00 p.m.  
Discussion at 7:30 p.m.

**The Menu**

Romaine & Belgian Endive Salad

With one of the following entrees:

Sautéed Chicken Breast

With lemon caper sauce

**\*\* OR \*\***

Potato Crusted Salmon

With Roast Shallot Herb Sauce

**\*\* OR \*\***

Vegetarian Selection

Served with Orzo Pasta  
And

Italian Panna Cotta

with

Coffee and Tea

Due to the large number of attendees expected at this event, the SDIPLA is again requesting **Pre-Registration and Pre-Payment**.

To reserve your place, please fill out the below registration, and send it **WITH YOUR CHECK MADE PAYABLE TO 'SDIPLA'** to:

John E. Peterson  
SDIPLA Secretary  
Perkins Coie, LLP  
1620 26th St., 6th Fl. South Tower  
Santa Monica, CA 90404  
(310) 788-3346  
Fax: (310) 788-1272  
JEPeterson@PerkinsCoie.com

On-line reservation available- go to [www.acteva.com](http://www.acteva.com) and search for SDIPLA or follow the link at [www.SDIPLA.org](http://www.SDIPLA.org)

**Please fill out a separate form for each attendee.**

## REMINDERS

- Please mail, fax, or e-mail your reservation to John Peterson at the address, fax, or e-mail address indicated for receipt **no later than June 10th, 2009**.
- The reservation deadline is dictated by the hotel and not by the SDIPLA.

### NOTE MEAL PRICES

SDIPLA members: \$55.00

nonmembers: \$65.00

## Registration

Name: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Firm/Employer: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Member of SDIPLA? (circle one) YES NO

Entrée Choice: \_\_\_\_\_ Chicken \_\_\_\_\_ Salmon \_\_\_\_\_ Vegetarian



## SDIPLA NOMINATION

The Board has selected Kurt Kjelland as its candidate for SDIPLA Treasurer

### Candidate Statement for Kurt M. Kjelland

I am interested in becoming Treasurer of the San Diego Intellectual Property Law Association (SDIPLA), and submit my candidacy for the June 2009 election. I seek this office to more directly contribute to the San Diego IP community, and in particular, serve its members to ensure the continued strength, richness, and vibrancy of the SDIPLA. I believe that my long history of community service, broad-based practice experience, energy, and enthusiasm qualify me to serve the members of SDIPLA.

I have been a member of the SDIPLA since 2000. I have previously been a member of the Sponsorship Committee, and I co-authored the *amicus* brief submitted by SDIPLA in the *Phillips* case (2004). I have experience with several other volunteer boards, including serving as Vice President of the UCLA Engineering Alumni Association, and for the past several years on the Carmel Valley Park & Recreation Board, including Vice Chairman in 2007.

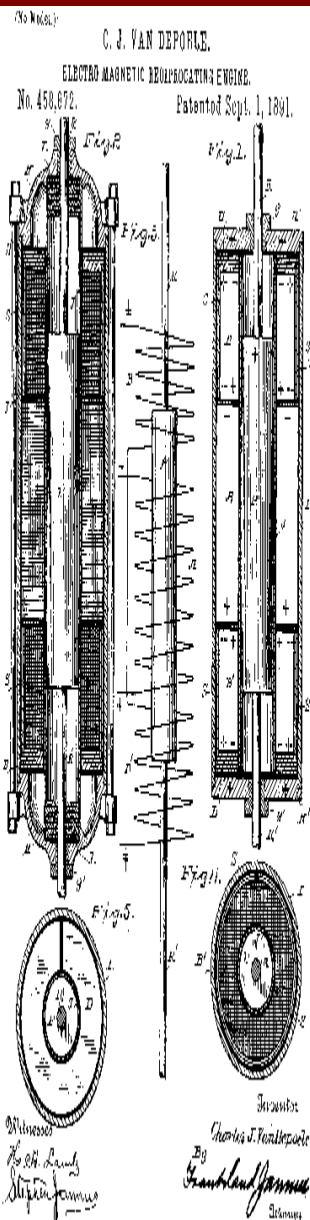
I am registered with the USPTO, and am currently a partner at Foley & Lardner. I have a patent litigation, counseling, and prosecution practice, and have had the privilege of representing many San Diego companies - from start-ups to Fortune 50 companies - in matters involving biotech, pharma, medical device, and wireless communication technologies. I have also been involved in several local *pro bono* matters. Because my practice is and has always been diverse - from both technology and substantive legal standpoints - I bring a wide-ranging perspective to the issues and concerns of a wide constituency of IP practitioners in our community.

I have worked in the San Diego legal community since 1994, and have

## K. Kjelland statement continued ...

been a partner or shareholder in several prominent IP firms, including Brobeck, Phleger & Harrison, Paul Hastings, and Heller Ehrman. I began my IP career at Lyon & Lyon in 1997, after doing trial work for Cozen & O'Connor. I received my J.D., *cum laude*, in 1994 from the University of Notre Dame, and have a B.S. in Chemical Engineering from UCLA.

Thank you for your consideration of my candidacy.



## Internet Sightings column for June 2009

### Heading - *Internet Sightings* by Jim Hawes

This column highlights some of the more notable recent internet notices, newsletters and blogs dealing with IP prosecution issues. It may be a distillation by the editor of the submitted IS column. The full IS column, with compilations of some of the sources such as Hal Wegner's newsletter, is now up and available at [www.internetsightings.com](http://www.internetsightings.com). Check it out.

### Hal Wegner's newsletter – a lot of great stuff – Contact: [hwegner@foley.com](mailto:hwegner@foley.com)

The 5/5/09 newsletter discusses the current problems at the Senate Judiciary Committee concerning patent reform and the supreme court nominee.

Another 5/5/09 email discusses the Catlin BPAI decision holding *sua sponte* a means claim indefinite for the specification's failure to recite corresponding structure.

The 5/6/09 message discusses the Resolution Eyewear CAFC decision and its dicta criticizing the "problems" section of the spec. Hal urges all to NOT include any background, objects or problems section in the spec for they are not required and can only cause difficulties.

A 5/7/09 email reports that James Pooley, a stated candidate for the PTO Director position, will be nominated as Deputy Director of WIPO. A second email lists the many other candidates for the job.

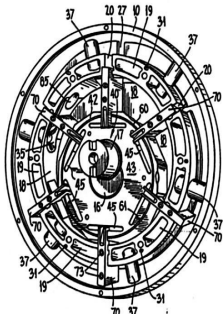


FIG. 2.



Another 5/7/09 message attaches an extensive paper discussing inter partes reexamination, one of Hal's favorite topics.

Hal's Top Ten list of cases on appeal are discussed and attached in his emails of 5/8, 5/10, 5/12, 5/13, 5/15, and 5/18.

Another 5/8/09 message reports a \$72 million jury award in the Air Measurements case against a patent firm for application errors. Oh oh.

The 5/11/09 email compares the top IP law school lists of US News and PatentlyO, finding that GW and Stanford are leaders on both.

The 5/20/09 email reports the Dickson Ind. CAFC decision vacating an inequitable conduct holding for the trial court failed to allow evidence of good faith. PatentlyO discusses this case in its 5/21 posting.

The 5/21/09 message discusses the PTO's denial of productivity credits to BPAI judges when they remand a case. Well, well. How about that. See also PatentlyO for 5/21 and 5/22.

Another 5/21/09 message discusses the Linear Tech. CAFC ruling that a claim may not be construed to only cover the specification's disclosure. Only a clear and unambiguous disavowal will limit a claim's scope. That's a welcomed observation.

Hal's 6/1/09 email reports that the **Supreme Court just granted cert in Bilski**. I'm sure we will be hearing much, much more about this appeal.

**Patently-O** – a blog written by Dennis Crouch – [www.patentlyo.com](http://www.patentlyo.com).

The 4/30/09 blog summarizes testimony before the House Judiciary Comm. concerning the proposed patent reform legislation.

The 5/7/09 email reports a survey finding that corporate IP departments expect a 4.3% budget drop and a 7.7% IP litigation expense drop over the next 6 months.

The 5/9/09 blog discusses the Fallaux CAFC decision affirming an obvious-type double patenting BPAI decision in a later- issued patent in a family of patents.

The 5/11/09 posting reports the Sofpool CAFC en banc decision holding that the Egyptian Goddess decision establishes a "new" ordinary observer test, so admissions under the "old" test are not persuasive. The new test, said the Court, allows use of prior art to highlight differences.

The 5/13/09 email reports that a group of people have sued the PTO and the patent holder to declare a breast cancer gene patent invalid as a product of nature.

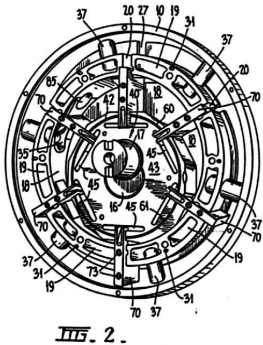


FIG. 2.



The 5/18/09 blog reports the Abbott Labs en banc CAFC decision holding sua sponte that infringement of product by process claims requires a showing that the process is being practiced. See also Hal Wegner's email of 5/19/09 for further discussion of this case.

**BPAI Watchdog** – selected BPAI decisions -  
[leigh.martinson@gmail.com](mailto:leigh.martinson@gmail.com)

The 5/6/09 email discusses the Duvant 4/28 decision holding a claim to an algorithm meets the requirements of sec. 101; all uses were not preempted.

The 5/12/09 message discusses a strange BPAI decision, Ex parte Synder, with claims directed to a certain text to XML transformer that were not limited to any particular computer and therefore were deemed invalid under sec. 101 per Bilski. A very strange holding.

**Other Stuff** –

This year's Spring IP Seminar is being offered by most of the CA IP groups at Lake Arrowhead on June 12-14. See you there I hope. The Cal Bar's IP Section Entertainment and the Media Committee is holding its third annual program June 25 at the Beverly Hills Hotel.

The Foley & Lardner firm offers free IP web seminars from time to time. Contact them to sign up for notices.

Foley also offers a website for those wishing to follow patent reform legislation – see [foley.com/patentreform](http://foley.com/patentreform).

LSI is offering a one day best practices seminar on July 20 in DC about "Buying, Selling and Licensing Patents."

LSI is also offering a "Cost Effective Patent Strategies" seminar on July 15 in Seattle. Here's your chance to see some sunshine there.

For those who follow copyright law, Robert Bernstein now offers his timely New York Law Journal column by email – write [rjb@robert-bernsteinlaw.com](mailto:rjb@robert-bernsteinlaw.com) to subscribe.

For more information about any of the patent topics mentioned consult *Patent Application Practice* published by West and updated twice a year.

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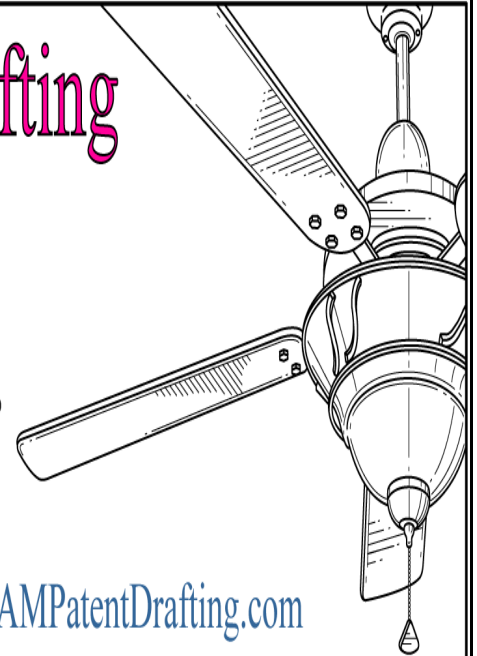
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## Two Job Openings for HTC Corporation

### Patent licensing director:

- in San Diego or Seattle/Bellevue
- at least 4 years experience in patent licensing; not necessary to be an attorney, but must have good business sense and knowledge of patent licensing terms
- negotiation experience preferred
- will report directly to General Counsel or Chief Patent Counsel
- resumes can be sent to [heidi\\_hui@htc.com](mailto:heidi_hui@htc.com) and [alex\\_chen@htc.com](mailto:alex_chen@htc.com)

### Patent litigation counsel:

- in San Diego or Seattle/Bellevue
- 3-7 years experience in patent litigation working at a law firm or managing outside counsel
- Undergraduate degree in engineering or physics preferred
- registered attorney to practice law in at least one State
- must be a team player and a responsible case manager
- experience in mobile phone technologies preferred
- willingness to travel within U.S. 1-3 days per month preferred
- will report directly to Chief Patent Counsel
- must have at least 3 work references
- resumes can be sent to [heidi\\_hui@htc.com](mailto:heidi_hui@htc.com) and [alex\\_chen@htc.com](mailto:alex_chen@htc.com)

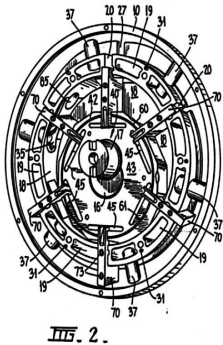


FIG. 2.

