2017 Intellectual Property Law and Sports & Entertainment Law Sections Joint Annual Meeting

LIVE
Friday, April 28, 2017
Hilton Wilmington Riverside, Wilmington

VIDEO REPLAYS (at printing)
Cary  Thursday, July 13, 2017
Charlotte  Tuesday, June 20, 2017

CLE CREDIT: 6.75 Hours
Includes 1.0 Hour Ethics/Professional Responsibility

UPDATES & REGISTRATION
www.tinyurl.com/CLE572ISM

SUMMARY: Join us for a special joint meeting between the Intellectual Property Law and Sports & Entertainment Law Sections in the fun-filled city of Wilmington. In parallel and overlapping tracks, learn about the latest developments in sports and entertainment law and in patent, trademark and copyright law.

- Hear about the implications of the Defend Trade Secrets Act
- Learn about the law surrounding eSports
- Gain insights into IP damages
- Receive updates on The Slants and Varsity Brands cases
- Consider who owns biometric data for sports teams
- Become familiar with the latest on patentable subject matter
- Earn ethics credit through an analysis of inequitable conduct or agency/attorney-client relationships and alternative pay

The North Carolina Bar Association Foundation is accredited by the North Carolina State Bar as a provider of continuing legal education.

www.ncbar.org/CLE  #NCBACLE  facebook.com/NCBAorg
### TUITION | LIVE • VIDEO REPLAY (VR)

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**VIDEO REPLAY LOCATIONS**

For details and updates, see www.tinyurl.com/CLE572ISM

- Cary | #572BAR | July 13
- Charlotte | #572CHA | June 20
- Other (if applicable, from website): City:__________ | Code: #572____

### REGISTRANT INFORMATION

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### PAYMENT

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- Enclosed is a check, payable to the NCBA Foundation.
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Card Number:_____________ Expiration Date:_____________
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Registration and Continental Breakfast
(Breakfast included at Live program only)

Welcome and Introductions

Top 10 Cases (Year in Review)
Angela P. Doughty, David R. Hansen, Amanda K. Murphy, Barbara Osborne and Erica B. E. Rogers
Intellectual property and sports and entertainment law experts review the latest developments in patent, trademarks, copyrights and sports and entertainment.

Break | Sponsored by Patent Designs

Breakout Sessions (Please choose one)

• PATENTS | Entity Status/ Divided Infringement
  Lyle Gravatt and Arles A. Taylor Jr.
  This session examines the rules for determining entity status, by examples of determinations made by the SBA that have been somewhat inconsistent with those historically used by Patent Practitioners. This session also discusses divided infringement and considers recent court decisions that have addressed issues related to divided infringement and the potential impact of these decisions on patent application drafting strategies.

• TRADEMARKS/SPORTS & ENTERTAINMENT | The Slants Recap
  Megan M. Carpenter
  • Suddenly unconstitutional? The Slants case recap
  • Discussion of developments in Lee v. Tam
  • Question presented at the U.S. Supreme Court: Whether the disparagement provision of the Lanham Act is facially invalid under the Free Speech Clause of the First Amendment

Intellectual Property Law Section Annual Meeting

Sports & Entertainment Law Section Annual Meeting
Shannon L. Vandiver, Shannon L. Vandiver, PLLC, Huntersville, 2016-2017 Sports & Entertainment Law Section Chair, presiding

Networking Lunch (included at Live program only)

Breakout Sessions (Please choose one)

• PATENTS | Abstractness and Sec. 101: Patent Eligibility in a Post-Alice World
  John K. Whetzel
  This presentation provides a brief introduction to abstractness as a basis for patent ineligible and reviews the test currently used to determine whether patent claims are abstract. Recent cases at the Federal Circuit which help clarify the contours of this test are also examined, along with their implications for drafting and prosecuting patent applications to avoid Sec. 101 rejections.

• COPYRIGHTS | Uniform Code: Star Athletica v. Varsity Brands Recap
  Christine Haight Farley
  • Discussion of developments in the cheerleading uniform case
  • Question presented at U.S. Supreme Court: What is the appropriate test to determine when a feature of the design of a useful article is protectable under Section 101 of the Copyright Act?
• **SPORTS & ENTERTAINMENT | Who Owns Biometric Data for Sports Teams?**  
  Barbara Osborne  
  This presentation explores the use of biometric technology as it relates to the monitoring of athlete’s training to achieve maximum performance in U.S. professional and collegiate sports leagues and the potential legal implications related to privacy, HIPAA and employment/labor law.

2:00  
**Defend Trade Secrets Act**  
Aaron J. Morrow  
The United States Defend Trade Secrets Act signed into law in 2016 provides a federal civil cause of action for the protection of trade secrets in the United States. The presentation includes a brief introduction explaining the importance of trade secrets, an overview of the Act and strategies for maintaining trade secrets, conducting trade secret litigation and emerging trends.

3:00  
**Break**

3:15  
**Breakout Sessions (Please choose one)**

• **IP DAMAGES | Patents/Trademarks/Copyrights**  
  Nicole N. Zakowicz  
  With the ever-changing environment of intellectual property damages, this presentation gives participants an overview on the legal theories and case law shaping intellectual property damages—from the historic cases that shaped intellectual property damages to more recent ones addressing such hot topics as the Entire Market Value Rule (EMVR) and comparable licenses, among others. Combined with a good understanding of the current state of intellectual property damages, participants learn to successfully retain and effectively use damages experts in intellectual property litigation.

• **SPORTS & ENTERTAINMENT | eSports and Law**  
  Moderator: Brandon J. Huffman  
  Panelists: Avi Bhuiyan and Ma’idah N. Lashani  
  The $500 million eSport industry has attracted more than 40,000 live attendees and tens of millions watching over the Internet. It operates within a different legal framework than traditional sports, with no single league, no governing body. The games themselves are protected by intellectual property rights. This presentation provides legal practitioners an overview of the industry and its unique issues.

4:15  
**Breakout Sessions (Please choose one)**

• **PATENTS | Inequitable Conduct After Therasense**  
  Amanda K. Murphy  
  With the USPTO’s proposed Rule 56 changes re-introduced last fall, the Therasense standard for materiality looks like it is here to stay (for now). Learn about the questions to consider and practical tactics to implement in order to avoid inequitable content in patent prosecution.

• **TRADEMARKS/COPYRIGHTS/SPORTS & ENTERTAINMENT | Agency/Attorney-Client Relationships/Alternative Pay**  
  Matthew S. Kelly and Whitney C. Frye  
  In the world of sports and entertainment, attorneys are often asked to also take on the role of agent. This may complicate the client billing process and conflict with the Rules of Professional Conduct. In this session, we explore the dual role of attorney and agent and the ethics rules surrounding it. An overview of recent changes to, and ethical implications of, the North Carolina Uniform Athlete Agents Act is also provided.

5:15  
**Adjourn**

*Indicates portion providing Ethics/Professional Responsibility credit

We extend our sincere gratitude to the NCBA Intellectual Property Law and Sports & Entertainment Law Sections and the planners and speakers who volunteer their time and expertise toward the goal of presenting an educational program of the very highest quality.
Planners
- Cary B. Davis, Robinson Bradshaw PA, Charlotte
- Brandon J. Huffman, Hutchison PLLC, Raleigh
- Robert A. Schwartzman, Myers Bigel PA, Raleigh
- Ed Timberlake, Forrest Firm PC, Durham

Speakers
- Avi Bhuiyan, Catalyst Sports Media, Los Angeles
- Megan M. Carpenter, Texas A&M University School of Law, Fort Worth, Texas
- Angela P. Doughty, Ward and Smith PA, New Bern
- Christine Haight Farley, American University Washington College of Law, Washington, DC
- Whitney C. Frye, North Carolina High School Athletic Association, Chapel Hill
- W. Lyle Gravatt, NK Patent Law PLLC, Raleigh
- David R. Hansen, Office of Copyright and Scholarly Communications, Duke University, Durham
- Brandon J. Huffman, Hutchison PLLC, Raleigh
- Matthew S. Kelly, Kelly Law Group PLLC, Charlotte
- Ma’idah N. Lashani, Morrison & Lee LLP, Raleigh
- Aaron J. Morrow, K&L Gates, Chicago
- Amanda K. Murphy, Ph.D., Finnegan Henderson Farabow Garrett & Dunner LLP, Washington, DC
- Barbara Osborne, Department of Exercise and Sport Science, University of North Carolina at Chapel Hill, Chapel Hill
- Erica B. E. Rogers, Ward and Smith PA, New Bern
- Arles A. Taylor Jr., Jenkins Wilson Taylor & Hunt PA, Durham
- John K. Whetzel, Myers Bigel PA, Raleigh
- Nicole N. Zakowicz, EisnerAmper LLP, Durham and Philadelphia

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Hotel Information
Contact hotel directly for reservations at the special NCBA room rate. Rates are based on availability and may sell out.

Hilton Wilmington Riverside
301 North Water Street, Wilmington
Rate: $145 Single/Double
Room Block Dates: April 27-29
Reservations: 910.763.5900 or www.wilmingtonriverside.hilton.com

Rate Code: NCB
Cutoff Date: April 7, 2017

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