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Patent Ethics at Its Best

By Professor Marketa Trimble

Ethics in patent law – or rather, instances in which it is absent – have propelled a number of reform initiatives that should adjust patent law to the realities of today’s practice. Reactions to the practices of so-called “non-practicing entities” or “patent trolls” – entities that do not manufacture or engage in research and development but only aggressively enforce patent rights obtained from others – can be observed in a number of current developments in patent law; some examples are limitations on the availability of injunctive relief, clarification of venue transfer rules, scrutiny of the calculation of damage awards, and interpretations of the work-product doctrine (in the context of non-practicing entities) and the definition of “domestic industry” for purposes of Section 337 proceedings before the ITC. Although these developments will mitigate some of the more questionable practices in patent law, they certainly do not reflect all of the ethical issues that arise in patent practice. To contribute to the discussion of these issues, the Boyd School of Law on Friday, September 23, 2011, will host two distinguished experts in patent ethics, Professor William Gallagher and Professor David Hricik.

Professors Gallagher and Hricik will discuss issues of patent ethics, particularly as they arise in patent licensing, at an intellectual property seminar that has been prepared by the Boyd School of Law together with IGT, a prominent gaming technology company. The seminar, entitled Intellectual Property Seminar: Assets, Licensing and Pooling, will bring together practitioners and academics; in addition to offering interesting panels on a variety of topics, it will also feature the General Counsel of the United States Patent and Trademark Office.

Professors Gallagher and Hricik bring unique perspectives from their substantial practical experience and extensive research in the area of patent law ethics. After a number of years practicing intellectual property law, both embarked on academic careers and have continued pursuing their passion for ethical problems associated with patent law. In addition to publishing numerous articles and blog posts on the topic, Professor Hricik authored two books on patent ethics – Patent Ethics: Prosecution (together with Mercedes Meyer) and Patent Ethics: Litigation, which were published by Oxford University Press in 2009 and 2010 respectively. Professor Gallagher recently completed an empirical research project of unparalleled scale that focused on ethics and patent lawyers; he will publish his findings in a series of works, which will include the article IP Legal Ethics in the Everyday Practice of Law: An Empirical Perspective on Patent Litigators. Gallagher’s and Hricik’s discussion of ethics issues in patent licensing during the Intellectual Property Seminar promises to be both informative and spirited; don’t miss the opportunity to learn about “patent ethics at its best” on September 23, 2011.

Recommended by Stacey Tovno