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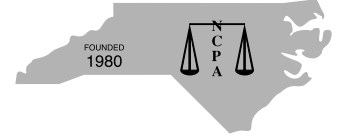
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of the
National Association
of Legal Assistants, Inc.

Winter 2009

North Carolina Paralegal Association, Inc.

Forum



noun [C]; *för-əm*
an occasion or a place for talking about a matter of public interest

INTELLECTUAL PROPERTY: FROM WEST TO EAST



IN THIS ISSUE...

- ☐ Trademarks Generally
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- ☐ 2009 Annual NALA Meeting Report
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Submissions: To submit materials for publication, please send to the Senior Editor at marutledge@gmail.com.

Advertising: For advertising and rate information for the NCPA FORUM, contact the Advertising Editor at brandon@hopfhigley.com.

Back Issues/Reprints: Subject to availability, back issues may be found and printed online at www.ncparalegal.org, under the publications link.

Contributor's Policy: Contributions or gifts to NCPA are not deductible as charitable contributions for federal income tax purposes; however, payments may qualify as ordinary and necessary business expenses.

Publication Notice: The NCPA FORUM is the official publication of the North Carolina Paralegal Association, Inc., PO Box 36264, Charlotte, NC 28236-6264. Our publication is devoted to informing and educating the paralegal profession.

Editorial Policy: Opinions expressed in articles and features herein are those of the author, and do not necessarily reflect the views of NCPA. The Editor strongly encourages the submission of materials for publication. The Editor reserves the right to edit material and accept or reject materials submitted.



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President's Message

Patricia F. Clapper, ACP, NCCP



The cold weather has arrived in North Carolina! I'm more of a warm weather gal and that's why I am looking forward to NCPA's 30th Annual Seminar and Meeting, which is going to be held at the Holiday Inn Sunspree, in Wrightsville Beach, March 18-20, 2010. This will mark NCPA's 30th anniversary and our education committee is already planning exciting things to help celebrate our birthday. Mark your calendars now and look on NCPA's website beginning in February for registration information.

There are many other things happening behind the scenes of NCPA as we try to find ways to offer more to our members. We are researching the option to offer a mentoring program to new members and the possibility to provide a listserv on our website to enable additional networking opportunities to our members.

If you have ideas for additional proactive benefits that NCPA can offer its members, please do not hesitate to email me - my mailbox is always open.

Have a great holiday and I look forward to seeing you all in March!

Patricia F. Clapper, ACP, NCCP

Chairman's Message

Diane N. Morgan, NCCP



As we are all too acutely aware, the American economy is experiencing one of the worst downturns since the Great Depression. Many of us have faced or know someone who has had to cope with either downsizing, mandatory unpaid furloughs, and then the inability to find a job. What we must remember is "this too shall pass." In the meantime, it is extremely important to remember to stay connected to your profession. By this statement, I mean maintain membership in professional organizations, like NCPA. I understand that this may be financially tough for some paralegals as employers are cutting back on such perks as funding these memberships.

Remember, NCPA is a professional self-governing organization run by paralegals for paralegals! Within NCPA, you can network and stay in touch with new trends within the profession via several channels within NCPA. You can network with peers through local district involvement or at either the annual and/or mid-year seminars. There is truly something for everyone within the NCPA. The key is to become involved!

I would also encourage everyone to expand your education. President Obama, in a speech earlier this year, called on all Americans to commit to at least one year of higher education or career training. I also encourage every paralegal to gain additional certifications, if possible. The 2009 Mid-Year Seminar, in September, offers review courses for both state and national certification. Please check the NCPA website for details.

The job market is extremely tough right now, so keep a competitive edge – stay connected to NCPA!

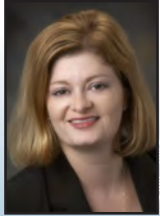
All the best,

Diane N. Morgan, NCCP



1st Vice President's Report

Stephanie Elliott-Park, NCCP



The 2009 CLA/NCCP Review Courses and Mid Year Seminar, which were held September 18-19, 2009, in Winston-Salem, were a great success. Early Friday morning the CLA review began and attendees were able to get a “crash course” on what to expect on the exam and helpful tips from members who have their CLA designations. On Friday night, a reception was held and attendees were able to preregister, mingle, and enjoying time away from work.

The NCCP review was held on Saturday, along with the Mid Year Seminar. Attendees enjoyed a variety of topics including HIPAA, E-Discovery, Social Security, and Changes in the Real Estate laws. A buffet-style Southwestern themed lunch was served to attendees, members, exhibitors, and special guests. Attendees and members were able to socialize and network with each other and the exhibitors, and even went

home with great goodies courtesy of the Exhibitors. At the end of seminar, drawings were held for the great door prizes, including a fully stocked cooler, wine basket, and a \$50 gift card.

A tremendous amount of work went on behind the scenes to make the Review Courses and Seminar a success -- many hours were spent by the committees and NCPA members. The staff at the Embassy Suites was friendly and helped with the smallest of details so that the entire weekend went smoothly. Whenever you get a chance, thank your fellow members for their hard work and dedication!

We look forward to seeing you in March in Wrightsville Beach. Information will be available after the first of the year, so be sure to check www.ncparalegal.org for more information!

Stephanie Elliott-Park, NCCP

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Second Vice President's Report Membership

Yolanda N. Smith, ACP, NCCP

The current membership breakdown as of October 27, 2009 is as follows:

General members:	361
Associate members:	45
Student members:	97
Sustaining Members:	9
Affiliate members:	4
Educational Program members:	3
Total	519

We would like to acknowledge our newest (G)eneral, (A)ssociate, and (S)tudent members joining from August 3, 2009 – October 27, 2009:

Anjeanette LaVern Ward, Raleigh, NC (S)	Kathryn Flynn, Chapel Hill, NC (S)	Renee Gunter Whitley, Huntersville, NC (S)
Denise Dickey Chavatal, Parlin, NC (A)	Kimberly M. McClain, Winston-Salem, NC (S)	Rhonda L. Uran, Mooresville, NC (G)
Elizabeth Claire Ellington, Chapel Hill, NC (S)	Lorey D. Peak, Asheville, NC (G)	Sandra R. Blount, Leland, NC (S)
Elizabeth Keisha Danielly, Charlotte, NC (S)	Martina L. Hayward, Clemmons, NC (S)	Sara E. Riopell, Sylva, NC (S)
Irma Rovaite, Matthews, NC (S)	Mary Nason, Lewisville, NC (S)	Shaina Hutson, Kinston, NC (S)
Jeanne Inga Keim, Concord, NC (A)	Monica L. Wilson, Fort Bragg, NC (S)	Shasta D. Grimstead, Raleigh, NC (S)
Jennifer L. Larocco, Durham, NC (S)	Nan Pierce Wiggins, Garner, NC (S)	Sundi Canada-Moody, Raleigh, NC (G)
Joann M. Lyon, Mint Hill, NC (S)	Patrick W. Caulfield, Durham, NC (G)	Vanessa A. Jamal, Cary, NC (S)
Joy C. Belk, Garner, NC (G)	Peggy Kline, Cary, NC (S)	

NCPA is proud to recognize the following Sustaining members:

4NC Records, Case-Closed Investigations, Case Works, Envision Discovery, Huseby, Inc., Kay McGovern & Associates, Lawyers Mutual Liability Insurance of NC, National Digital Forensics, Inc. and NC Academy of Superior Court Mediator.



NCPA would also like to recognize our Affiliate and Educational Program members:

Alamance County Paralegal Association, Caldwell Community College and Technical Institute, Carteret Community College, Cumberland County Paralegal Association, Guilford Paralegal Association, Guilford Technical Community College, and Research Triangle Paralegal Association

Feel free to contact me at any time if you have questions about membership in NCPA.

Yolanda N. Smith, ACP, NCCP
Second Vice President, Membership Chair



Please join me in welcoming your new Senior Editor – Brandon Ruth, NCSB/CP. Brandon works for Hopf & Higley, P.A., a North Carolina Civil Litigation Law Firm in Greenville, NC. You will enjoy Brandon’s fresh perspective and ease to work with.

and an optimistic attitude; and our family and friends continue to be our solid foundation and provide great reality checks! I really never get tired of hearing “for every door that closes another opens” or “take it one day at a time.” Many get annoyed and can’t think of any possible positive outcomes to tough moments in life and quite frankly that can make the door swing from wide open to slammed shut. Open the door and imagine, dream, re-evaluate what you want, what is good for you and yours, and soon you’ll see a lot of negative vibes turning into ideas and boosting the drive to make it happen.

Editor’s Court

Melissa Rutledge, NCCP

I will miss working with each of you and want to thank you for the opportunity to serve as NCPA’s Senior/Advertising Editor for the last two years. Change – change is

There are a lot of deadlines coming up in December and January, so please ensure that you check out the Calendar of Events.

As always, please enjoy this edition of NCPA’s FORUM. Be sure to send your ideas to Brandon and any feedback for Change! His contact information can be found on the Worker Bee List at the end of the FORUM.

inevitable, so how do you embrace it?

Warm wishes and marshmallow dreams!

This question has come up in my life in so many ways over the last several months. One year ago our site shed 46% of its employees, and this year the company closing our site entirely. My children seem to grow an inch every month and become more independent. Family members become ill, and times remain tough; so how do we embrace the change?

Sincerely, *Melissa Rutledge, NCCP*

We embrace the change with hope, dignity, pats on each other’s backs,

In the Fall 2009 issue of the FORUM, we incorrectly printed a session topic for our Mid Year Seminar. The correct session topic should have read “A Paralegal Guide to Broker-Dealer Registration: What Every Paralegal Should Know”. We apologize for any inconvenience or confusion this may have caused to any member who registered for this topic or to the speaker, Mary Willard, CLAS, NCCP.



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Your Rights as a Copyright Owner

By Michael Coyle

In the leading case of *University of London Press Ltd v University Tutorial Press Ltd* [1916] 2 Ch 601 at 610 Petersen J stated the now well known maxim 'what is worth copying is prima facie worth protecting'.

So if you can establish that you are the owner of the work (amongst other things) and you are confident that someone has copied your works, then what next?

The Copyright Designs and Patents Act 1988 ('The Act') lays down six acts known as the restricted acts which you as a copyright owner can claim in your work. The 6 give you the exclusive rights ie no one else can do these acts in the UK.

These acts are fundamental to the laws of copyright. They are as follows

- the right to copy the work;
- the right to issue copies of the work to the public;
- the right to rent or lend the work to the public;
- the right to perform, show or play the work in public;
- the right to communicate the work to the public;
- the right to make an adaptation of the work or to do any of the above in relation to an adaptation;

How does this apply to an infringement?

Well in relation to a literary, dramatic, musical or artistic work, the Act outlines Section 17 (as amended) which sets out incidents of primary infringement ie the essentials of copyright and 'copying' means reproducing the work in any material form. In relation only to an artistic work, this includes making a three-dimensional copy of a two-dimensional work and vice versa.

In relation to a film or broadcast the act of copying includes the taking of a photograph of the whole or any substantial part of any image forming part of the work copied.

The Act was amended by virtue of SI 2004/2498 which amended section 17 in particular. In relation to the copying of a film previous case law has held that the copying of just one still frame from a film will be an infringement of copyright in the film. A key question is whether it is a 'substantial part': see *Spelling Goldberg Productions Inc v BPC Publishing Ltd* [1981] RPC 283, CA. Copyright, Designs and Patents Act 1988 s 17(3).

Michael Coyle is a Solicitor Advocate and can advise you and your business on any copyright issues you may have. He can be contacted via his email at michael.coyle@lawdit.co.uk

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NALA Liaison's Report

Jacqueline M. Thurman, CP, NCCP
NALA Liaison

NCPA would like to recognize and congratulate the following new North Carolina CP's:

Andrea L. Morano, CP
Durham, NC

Angelica E. Koelling, CP
Hillsborough, NC

(Names shown above are from the successful completion of the July examination.) I have several informational pamphlets and handouts on NALA, the legal assistant profession and the CLA/CP examination. If you or someone you know, would like this information, please do not hesitate to contact me directly or email a request to our website.

NCPA would like to also recognize and congratulate Shawndria McCoy and Debbie Sawyer, winners of the Meredith R. Pollette Scholarship Essay contest., which are featured in the next several pages of the FORUM.

Congratulations ladies on a job well done.

Shawndria McCoy's essay was the 1st place winner of a paid CP exam in NCPA's Meredith R. Pollette Scholarship contest.

“What the CLA Designation and the CLA Program Mean To Me”

Shawndria McCoy

The Certified Legal Assistant (CLA) designation and program is more than a just a name or group of letters. It is a professional designation given to a person who has graduated from an American Bar Association approved paralegal or legal assistant academic program, through which they are taught the roles, functions, and standards of the legal profession, and passed a certifying exam. The CLA designation offers strength and development to legal assistants and ensures they are better equipped to perform the important functions expected of a legal assistant while holding them to a higher standard and level of achievement in the profession. This designation shows attorneys and others in the legal field the legal assistant has been through a course of study and has passed a standardized test pertinent to those skills that are necessary in the legal profession, such as communication, ethics, legal research, and analytical and writing abilities. Because the program is voluntary, the mere fact that a person would pursue such a designation speaks volumes to their character, desire for success, and commitment to providing exceptional, high-quality services in the legal field and to clients. What sets the CLA program and designation apart from others is that it is based on federal law and is not state specific. Therefore, the individual possessing such a designation will be marketable on a national level and will be able to demonstrate the knowledge and skills of legal assistants in the profession across the United States.

Becoming a certified legal assistant is a noble and honorable designation demonstrating one's abilities to perform the essential and advanced functions of legal work. It is not a designation that meets the bare minimum qualifications, but is a special achieve-

ment that raises the bar and standards of the profession and individual as a whole. It is important that those working in the legal field provide more than just an average or satisfactory level of service to clients, considering clients place their lives in the hands of attorneys and legal assistants. It is the legal assistants who relay and receive much information from clients; therefore, it is imperative that legal assistants are fully knowledgeable about how to accurately and effectively perform their job function within the ethical requirements and limitations. Obtaining and maintaining the CLA designation is not something that should be taken for granted, but should be cherished far beyond measure, because it is more than just a name. The CLA program establishes this high level of service, and obtaining the designation shows dedication and passion for the work performed and the quality of service provided.

Being a certified legal assistant is beneficial not only to the legal assistant, but to the attorney(s) for and with whom they work on a daily basis. Certification for legal assistants is established and maintained by the National Association of Legal Assistants (NALA). Therefore, it is expected that the standards and expectations will be high. This works well in favor of those seeking legal employment, because this designation automatically verifies the applicant's credentials to employers and law firms. Further, employers are raising their benchmark for the type of employees they hire, which appears to benefit all involved in the legal process and clients. A properly trained legal assistant holding the CLA designation can better perform legal duties, such as legal research, document drafting, and communicating in a way

that will uphold the ethical obligations and standards required and demanded within the profession. Despite the voluntary basis of the CLA program, attorneys are provided a guideline for making hiring decisions by ensuring they hire qualified individuals, which should limit ethical violations and enhance the overall legal services he or she provides. As a result, the better services the firm or company offers, the more business they are likely to receive and the higher the level of respect they will obtain within the legal community.

For those legal assistants entering the legal profession with little or no experience, the academic preparation and certification program exposes them to functions of the job without totally depending on on-the-job training. It allows them to bring some legal knowledge to the work prior to getting involved with it. The ethical standards established and regulated by the American Bar Association indirectly apply to legal assistants. Those individuals providing legal services without having been through the CLA program are less likely to know all of the ethical restraints involved in their work; however, a legal assistant holding a CLA designation and having achieved a demonstrated knowledge of the skills is less likely to violate the ethical obligations. Such violations can not only affect the legal assistant's employment, but also the attorney's career and license.

To maintain the CLA designation, the legal assistant is required to take annual continuing legal education courses to stay abreast of new things going on in the legal field. Attending these education courses also allows a group of individuals who share a common thread to network and interact, while discussing experiences they have endured in the profession. It is clear that being a CLA is more than just a name; instead, it is all encompassing of

many characteristics and accolades.

Obtaining the CLA designation exposes the legal assistant to some aspects of what the attorney does, such as analytical and writing skills. This exposure is an added benefit that legal assistants would not otherwise receive without attending law school. The more knowledge one receives the better that person becomes in whatever he or she does.

Another benefit of the CLA program is that once certified, a legal assistant has the option to take advanced courses specializing in certain types of law, such as social security, worker's compensation, and admiralty. These advanced courses also are voluntary; however, this advanced training will further stretch and enhance the legal assistants' knowledge of the particular areas in which they work on a daily basis. This advanced training gives a new meaning to the word "professional."

It is my personal and professional goal to obtain my CLA designation, because I desire to become well rounded in the legal field, and I seek more challenges. I have never settled for being good or above average; I want to perform exceptionally in all that I do. Upon review of my work, I want an attorney to know 1) the firm has made an excellent decision to hire me based on my skills and abilities; 2) I can be trusted to perform my best and uphold their standards and the standards of the profession; 3) I am passionate about what I do, and care about the clients; and 4) I am not stagnant, but consistently seeking to grow in the profession. Obtaining the CLA designation is not a self-serving act so much as it demonstrates one's care and concern for others. Therefore, the CLA designation and program is far more than just a name.

Debby Sawyer's essay was the 1st place winner of a paid ACP exam in NCPA's Meredith R. Pollette Scholarship contest.

I Am Pursuing the ACP Designation Because...

By Debby Sawyer

The Advanced Paralegal Certification (ACP) is a program developed by the National Association of Legal Assistants/Paralegals (NALA). NALA is the leading professional association for legal assistants and paralegals, providing continuing education and professional development programs. They are an integral part of the legal community, working to improve the quality and effectiveness of the delivery of legal services. NALA is composed of over 18,000 paralegals, through individual members and through its 90 state and local affiliated associations.

NALA began the Advanced Paralegal Certification program in 2006. The purpose of the program is to provide first class continuing education courses for paralegals in various specialty practice areas of the law and to provide a certification process to recognize those who have achieved the CLA/CP certification and successfully completed an advanced course. Having received my CP designation in 2004 and having worked as a paralegal

for almost 18 years, I have reached a point in my personal and professional life where I desire to further enhance my paralegal career by taking the ACP Exam.

I am a huge advocate for certification and education. One can never have too much knowledge or too much education. The paralegal field has become a very competitive profession. College degrees, certification, and experience have become the rule rather than the exception. In-house training is no longer the norm. In order to make one more marketable in this volatile and competitive workforce, you have to set yourself apart from the next person. Certification is an excellent tool to put paralegals one step higher on the ladder. Achieving the ACP certification is just another step up for me on my professional ladder.

In addition to being specialized in a chosen field, the ACP designation also serves another purpose. Completion of the exam also

signifies that the recipient possesses other intangible qualities as well, such as commitment, dedication, and passion. In order to lay the groundwork for taking the ACP exam, one must pass the CLA/CP certification exam. Preparation for this exam requires months of studying, time commitments, and a thorough knowledge of all aspects of the law. Some have even renamed it the "Paralegal Bar Exam". Achieving this designation demonstrates a paralegal's ambition and dedication for their profession. It also instills leadership capabilities that they can use for a lifetime. There is no greater feeling of accomplishment than receiving the CLA/CP designation. It is with that feeling of accomplishment that I wish to continue with my higher achievements of obtaining the ACP designation. Qualities and skills learned from achieving the CLA/CP designation are the foundation for being prepared for the ACP exam, and can only enrich my life both professionally and personally.

Achieving the ACP designation demonstrates that a paralegal is dedicated to his or her professional development and demonstrates their ambition to be the best that they can be. It carries a great deal of clout. There is little doubt that the ACP certification has had a posi-

tive impact on employers and paralegals. Surveys have shown consistently that those with specialty certification are billed at higher rates by firms and receive higher compensation. Those with the certification are also those who demonstrate more experience and expertise. Receiving the ACP designation can only make me more marketable should I desire to change fields or take a different career path in the legal world. Having that designation follow my name shows a prospective employer that I would be an asset to their company or firm without ever having met me.

In summary, achieving the ACP designation serves many purposes to those wishing to further their paralegal career and professional development. Not only does it make one more marketable in the employment world by demonstrating experience and expertise, it also helps one to develop other qualities of leadership and dedication. To date there are over 700 paralegals who have received the ACP credential. It is my desire to be included in that elite group of individuals by taking the exam and achieving my ACP designation.

**Mark your calendar now for
the North Carolina Paralegal Association, Inc.'s
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ATTENTION PARALEGAL STUDENTS

NCPA STUDENT SCHOLARSHIP CONTEST IS NOW OPEN!

SPONSORED BY NORTH CAROLINA PARALEGAL ASSOCIATION, INC.

The North Carolina Paralegal Association, Inc. ("NCPA") will be sponsoring its annual Student Scholarship Program this fall. Any paralegal student enrolled in an accredited North Carolina paralegal educational program is eligible. An essay competition will be the basis of the scholarship.

Essay Topic: "I have chosen to be a paralegal..."

Essay Requirements: The essays must be typed, double spaced, and on letter sized paper. They may not exceed two pages in length. Please be aware that spelling, grammar and punctuation will be taken into consideration, so please review your work before submitting. The essays will be judged anonymously, so do not reference your name or your paralegal program within the body of the essay.

Essay Deadline: JANUARY 15, 2010

Essay Submission: Submit your essay via U.S Mail or Email with a cover sheet containing your name, address, telephone number, email address, and the paralegal program you attend. All essays must be post-marked or emailed by January 15, 2010 to:

Student/School Relations Chair
North Carolina Paralegal Association, Inc.
Post Office Box 36264
Charlotte, NC 28236-6264
Or submit to info@ncparalegal.org.

Awards:

First Place:	\$400.00
Second Place:	\$300.00
Third Place:	\$200.00
Fourth Place:	\$100.00

In addition to the scholarship, all awards include a one-year, free student membership in NCPA and one free student registration to NCPA's 26th Annual Seminar and Meeting to be held March 18-20, 2010 in Wrightsville Beach, NC.

Notification: All award recipients will be notified by February 15, 2010.

If you have any questions, contact:
Debby Sawyer, CP
Student/School Relations Chair
dsawyer@ymwlaw.com • 919-719-6045

**All award scholarship checks will be made payable to the winners' educational facility

Statewide News

Congratulations Erin!

DISTRICT III NEWS

The Cumberland County Paralegal Association (CCPA) held a bake sale on October 26th in the Cumberland County Courthouse. A total of \$565.00 was collected, all of which will benefit the Teddy Bears for Officers Program through the Cumberland County Sheriff's Department.

In addition, the CCPA has announced its annual seminar, taking place on Saturday, April 17, 2010, from 8:00 am to 5:00 pm in Fayetteville.

Sylvia L. Erickson, NCCP
District III Director
(910) 484-0179 work
(910) 4244856 home
sylvia_erickson@fd.org

DISTRICT IV NEWS

Guilford Paralegal Association (GPA) held its October 13th meeting at Wyatt Early Harris Wheeler. The Honorable Susan R. Burch, District Court Judge of Guilford County, spoke to the members on How Judges Approach Family Law Cases.

On September 8, 2009, GPA held its annual ice cream social in conjunction with a fund- raising event ("Gold and Silver Party") to help support Legal Aid of North Carolina. Participants brought old gold or silver jewelry and other items which were appraised and sold. GPA was ultimately able to donate \$500 to Legal Aid.

Members of GPA are also participating in helping with a Greensboro Bar Association Habitat for Humanity project, and they have adopted the family who will be moving into the home as a project in conjunction with its December Holiday Dinner.

GPA, an affiliate member of NCPA was invited to set up an exhibit table during NCPA's Mid-Year Seminar in Winston-Salem on September 18th and 19th. GPA had one new member sign up at Mid-Year and several others took membership applications and asked questions about GPA. It was a good networking tool for GPA, and I would encourage any other affiliate association to participate when invited to do so by NCPA.

Details about these meetings and all of GPA's events are available on the website.

<http://www.guilfordparalegalassociation.org>



The NCPA staff would like to congratulate Erin B. Galloway, ACP, NCCP (past-President and current Survey Chair) and her husband Brent on the birth of their beautiful daughter Emma Clare, on September 29th. Mom, dad, and baby are healthy, happy, and learning new sleep patterns!

DISTRICT IX NEWS

Catawba Valley Paralegal Association (CVPA) held officer elections on October 13th, and we would like to congratulate the 2009-2010 officers:

President
Cyndy Adams

Vice-President & Treasure
Leah Poovey

Secretary
Cheryl Barker

Asst. Secretary
Peggy Hauman

Assistant Treasurer
Judith Glasscock



TECH TIPS



Are you on the go?

Did you know that members can access the NCPA member directory via a mobile phone?

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<http://mobile.memberclicks.com/ncpa>.

Log in as usual, using your username and password.

Search for and view profiles from the NCPA directory.



Please be aware that as of December 1, 2009, it will be illegal to text or email while driving. For details regarding this law, please see the following link:

<http://www.ncleg.net/Sessions/2009/Bills/House/HTML/H9v5.html>

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Calling All Members!

“People who ask our advice almost never take it. Yet we should never refuse to give it, upon request, for it often helps us to see our own way more clearly.” --Brendan Francis

Please consider contributing to the next edition of the *NCPA Forum*. Not only do we want our association’s publication to be informative and innovative for each and every member, we also want it to include helpful hints and sound advice from our main resources, our members. We are looking for all types of articles that relate to the paralegal community. Anything of interest to you will most likely be of interest to other paralegals across the state. Let your voice be heard in the *NCPA Forum*. Please submit all articles in Word format to Crystal L. Robinson, NCCP crystal@levineandstewart.com. You may also e-mail your comments, suggestions and possible article contributors to us as well.

Kay McGovern & Associates Certified Court Reporters

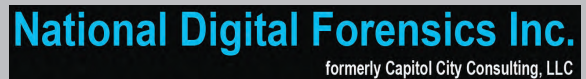
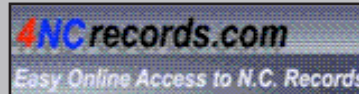
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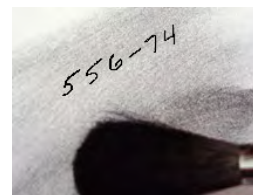
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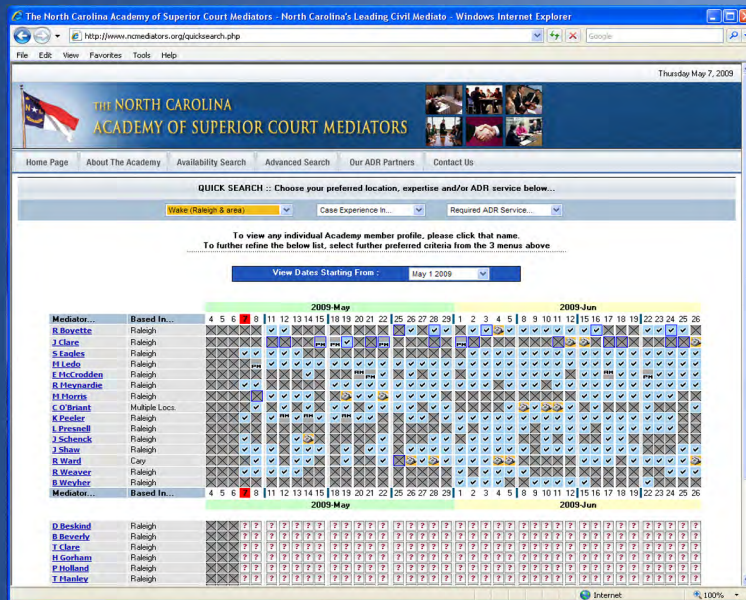


CALENDAR OF EVENTS

- December 1, 2009**
Sustaining, Educational, and Affiliate membership renewals begin
- December 4-5, 2009**
CLA/CP Exam
- December 19, 2009**
Declaration of Candidacy for Office Due
- December 31, 2009**
Sustaining, Educational, and Affiliate dues are delinquent memberships expire if not renewed
- January 1, 2010**
Individual (General, Associate, and Student) membership renewals begin
- January 4, 2010**
Recommendations for District Directors Due
- January 10, 2010**
NCPA BD/EC Meeting
- January 15, 2010**
CLA/CP Exam Registration Deadline

- January 15, 2010**
Deadline for submitting application to take March CLA/CP Exam
- January 15, 2010**
Student Scholarship Essay Entry Deadline
- January 31, 2010**
2009-2010 Membership Year Ends
- February 28, 2010**
Individual (General, Associate, and Student) dues are delinquent memberships expire if not renewed
- March 18-20, 2010**
NCPA's 30th Annual Meeting and Seminar in Wrightsville Beach, NC
- March 19-20, 2010**
CLA/CP Exam
- May 15, 2010**
CLA/CP Exam Registration Deadline
- July 14-17, 2010**
NALA Annual Conference in Jacksonville, FL
- July 23-24, 2010**
CLA/CP Exam

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Reprinted with permission of NALA, The Association of Legal Assistants/Paralegals and the author, Deb Monke, ACP. The article originally appeared in the November 2009 issue of *Facts & Findings*, the bimonthly magazine for paralegals. The article is reprinted here in its entirety. For further information, contact NALA at www.nala.org or phone 918-587-6828.

New gTLDs

Detour on the Internet Highway

By Debra J. Monke, ACP

Since the advent and immediate rapid growth of the Internet, individuals involved with intellectual property have primarily been focused on stopping infringements of any kind.

Meanwhile, the branding departments of companies have worked alongside intellectual property legal folks to develop a presence on the Internet. This of course involves using intellectual property in an appropriate manner so that trademarks are used correctly and the companies do not infringe the intellectual property rights of others.

The focus has been on the use of key words to obtain as many hits as possible to a Website, and growing the business by appropriate wording for ads to appear on search results. Obtaining appropriate domain names is also important to assist searchers in finding products and services.

For example, if I owned a paralegal service named “Monke’s Paralegals,” I would seek out the domain names “monkesparalegals.com, .net, .org and .info.” I might also register frequently misspelled versions of my business name (eg: “Monk”). If my little firm of paralegals became well known throughout the United States as a trustworthy and successful firm to assist attorneys, there are Cyber-

squatters and typosquatters who might wish to register similar versions of my domain name.

In 2010, the Internet Corporation for Assigned Names and Numbers (ICANN) intends to change all of that with what is referred to as “new gTLDs” (new generic top-level domains). Before proceeding, perhaps a few road signs would assist in understanding the Internet highway.



Some common signposts are:

Domain Name—The domain name is that part of the Uniform Resource Locator (URL) that tells a domain name server using the domain name system (DNS) where to forward a request for a Web page. The technical side of the address is a numbered system. To most of the world it is words, such as “monkesparalegals.com.”

Domain Name Infringement—

Infringement of another’s trademark or service mark by the use of a confusingly similar Internet domain name.

ICANN—The technical coordination body for the Internet. Essentially, this is the entity with the tough job of organizing the Internet.

New gTLD—Under the new proposed type of domain names, this will include:

- Open gTLD that can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. An open gTLD may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or user restrictions.
- Community-based gTLD is operated for the benefit of a defined community.

TLD—Refers to a “top level domain” such as “.com,” “.net,” “.org,” “.cn,” etc. There are currently more than 200 top-level domains.

With this roadmap, step back almost two years prior to October 2008 when ICANN studied the possibility of opening up a new top-level domain. ICANN adopted the slogan “openness change innovation” in their information about the new

gTLD. The purpose of this was to open up the marketplace and allow entities to create their own gTLD.

For example, even though I might already own monkesparalegal.com, .net and .org, I could now own “.monkes-paralegals” or “.paralegals.” The entire URL could be “legal.monkesparalegals” or “monke.paralegals.”

After many years of businesses developing their online presence under the current system, businesses must now consider whether or not to take this “detour” and shift their presence on the Internet.

In October 2008, ICANN issued the first “New gTLD Program: Draft Applicant Guidebook,” a 100-page document. There was a 45-day comment period, a second “Draft Applicant Guidebook” was issued, and a third version is imminent. The comments were prolific, both pro and con. This new system does substantially shift the thinking of how to brand a business.

It is also expensive compared to today where registrars will advertise the registration of domain names for as little as \$1.99. The new gTLD has a six-figure registration fee. The thinking behind this high fee is that it should help limit trademark infringement.

In addition, rather than simply going online and obtaining your domain name, the new gTLD includes an application process, which includes providing information as to the financial stability of the proposed new gTLD owner. This is logical, as this new program could result in the domain name owner, registrar and registry all being the same entity, which today is not allowed.

The new gTLD program requires changes to the existing ICANN regulations for more than simply the process of obtaining names. It also requires the domain name owners to determine if they wish to hire the labor force to run a registry and be the registrar, or look to a registrar to do so.

Arbitrations or litigation may be employed currently to resolve domain name disputes. The new gTLD program presents a new method for arbitration, with three grounds upon which to allege, and each will have a different dispute resolution provider. Once again, higher costs are certain,



including an arbitration fee for each objection ground.

This is a broad brushstroke explanation about this new process. There are in-depth business and technical ramifications that may be found at the ICANN Website (www.icann.org/en/topics/new-gtld-program.htm).

The point of this has been to emphasize the importance of your firm or in-house department visiting with clients about this new type of domain name. It is an area of discussion for many departments of large companies because it may be very costly. It may also take the company to a new direction in marketing.

Imagine franchises or real estate companies with agents across the country that could have a new gTLD with the brand name, and their various locations or agent names within these names. If were to franchise Monke's Paralegals I, could offer: "(city).monkesparalegals."

Originally it was thought these new gTLDs would roll out in May 2009, but we are now anticipating a late first-quarter 2010 debut. To stay abreast of the changes to come and the actual rollout I suggest you monitoring icann.org and consult with your registrar.

When I began working with intellectual property and the Internet, the running joke was that the Internet was the *Guaranteed*

Employment Act for trademark attorneys. This is an area of law that also employs many paralegals and this new “detour” has the possibility of encouraging the employment of many more. I look forward to seeing you on the Internet highway.

Debra J. Monke, ACP, is an Intellectual Property Administrator for State Farm Insurance Companies, Bloomington, IL. She is also an adjunct faculty member of the legal studies program at Illinois State University. Deb has been a paralegal since 1981 and is a Past President of NALA.



She was a co-founder and charter president of the Central Illinois Paralegal Association, and has taught introductory paralegal courses as well as being a frequent guest editorialist and writer for *Facts & Findings* and other paralegal professional literature. She frequently speaks on career development and intellectual property on NALA Campus LIVE! and at annual conferences for NALA.

deb.monke.giia@statefarm.com



NCPA JOINT MEETING OF THE EXECUTIVE COMMITTEE AND BOARD OF DIRECTORS

September 18, 2009

Embassy Suites Hotel

Winston Salem, North Carolina

Following are some of the issues discussed at the recent meeting of the Board and Executive Committee:

2009 Mid-Year Seminar Chair

Michele Tuttle, CLA, NCCP

Michelle was present and reported that Annual meeting is March 18-20 at Sunspree, Wrightsville Beach. Annual meeting will be NCPA's 30th birthday.

Convention Coordinator's Report

Shelby Tyson, NCCP

NCPA's 2010 Mid-Year Seminar will be at the Renaissance Hotel in Asheville

Membership Committee

Yolanda N. Smith, ACP, NCCP

Second Vice President

Yolanda reported that as of September 17, 2009, NCPA has 508 members; 360 General members; 44 Associate members; 88 Student members; 9 Sustaining members; 4 Affiliate members and 3 Educational Program members.

Treasurer's Report

Kimberly C. Pellicone, CP, NCCP

Kimberly submitted Treasurer's Reports for April-July 2009. Teresa Stacey motioned to approve April - July 2009 Treasurer's Reports. The motion was seconded by Beverly Moore and carried by unanimous vote.

District Director's Reports

(Interim) District I – Diane N. Morgan, NCCP

Diane reported that District I currently has 33 members consisting of 1 new member since our last meeting; 16 general members; 12 student members; 4 associate members and 1 paralegal Educator.

(Interim) District II – Beverly Johnston, NCCP

Beverly reported that as of September 16, 2009, District II has 131 members consisting of 102 general members; 9 associate members and 20 student members. Beverly's report states that District II added 15 new members since March 2009, and lost one that resulted in the first ever request for a refund; held 3 CPE meetings, mentored a Student Member by suggesting contact with an attorney for volunteer work which resulted in a job; mentored a student member by critiquing a resume, represented

NCPA at Meredith's Paralegal Orientation and added two new members from that presentation; donated 11 computer monitors to the Purple Elephant computer Factory on behalf of NCPA, and participated in the first Komen Race for the Cure as a team, spear headed by President Clapper.

(Interim) District III – Sylvia L. Erickson, NCCP

Sylvia reported that she assisted a paralegal student by proctoring her exam. This student passed the exam with flying colors and is actively seeking employment in the Cumberland County area. The Cumberland County Paralegal Association announced its annual seminar, which is on April 17, 2010. The Office of the Federal Public Defender for the Eastern District of North Carolina will conduct a free two-day seminar on October 8 and 9, 2009, in Wrightsville Beach. The seminar will cover a variety of topics related to federal criminal defense practice.

(Interim) District IV – Karen F. England, NCCP

Karen reported that District IV currently has 87 members as of August 31, 2009. Karen reported that District IV members join in with Guilford Paralegal Association and Alamance County Paralegal Association at their regular meeting. Guilford County Paralegal Association's meeting in September consisted of a hot dog cookout/ice cream social, along with a "Gold and Silver Party" fundraiser to benefit Legal Aid in Greensboro.

(Interim) District V – Vicki L. Sgro, NCCP

Vicki reported that District V currently has 104 members which consist of the following 7 counties, Anson, Cabarrus, Gaston, Mecklenburg, Montgomery, Stanly and Union. There have been 10 new members since our meeting of May 4, 2009.

District VII – Stephanie Ivans, NCCP

Stephanie reported that District VII currently has 20 members. District VII holds monthly meetings. The location alternates each month so all members have a chance to attend. She is sending out a monthly newsletter to keep members involved and informed in the district. To date she has received positive feedback from the newsletter and the monthly meetings.

(Interim) District VIII – Beth Falgout, NCCP

Beth reported that as of September 1, 2009 District VIII currently has 29 members.

(Interim) District IX – Beverly K. Moore, NCCP

Beverly reported that District IX currently has 18 members. The Catawba Valley Paralegal Association is very busy offering CPE courses and/or having social events each month. They are still relatively small but continuing to grow. District IX is still discussing doing a joint CVPA and NCPA event in the near future. Beverly also reports that NCPA currently has 104 members on Facebook.

Affiliate Director – Teresa Stacey, NCCP

Teresa reported that she went on the internet trying to find other paralegal associations that NCPA is not aware about.

Chairman of the Board**Diane Morgan, NCCP**

Diane thanked all the District Directors for their hard work and continued support of NCPA. Since becoming Chairman, she has published two Amicus Newsletters. Diane encourages the District Directors to submit anything of general interest (such as CLE) in their area as well as “news” for future additions.

NALA Liaison**Jacqueline M. Thurman, CP, NCCP**

Jacqueline reported that NALA's 34th Annual Convention was held at The Westin Gaslamp Quarters, in San Diego. The next NALA Convention will be held in Jacksonville, FL on July 14-17, 2010. Jacqueline also reported that 10 new Certified Paralegals passed the July exam.

COMMITTEE REPORTS**Audit****Belinda Ann Thomas ACP, NCCP**

Belinda reported that she had audited the books for the months of April, May, June, and July of 2009 for all accounts. All income and expenses balances for all four months and all records are in order.

Historian**Karen F. England, NCCP**

Karen reported that she has begun to work on the official 2009 history of NCPA and welcomes anything of significance that needs to be included. Karen welcomes any and all suggestions.

Long Range Planning**Beverly H. Johnston, NCCP**

A LRP meeting was held the morning of September 18, 2009. The focus was getting new members and retaining membership. A mentoring program was discussed. President Clapper moved that we form the Mentoring Committee and that Beverly Johnston chair it and Eunice Co-chair it. It was carried by unanimous vote.

NC Board of Paralegal Certification Liaison**Yolanda N. Smith, ACP, NCCP**

Yolanda reported that the next NCCP exam will be held on October 3, 2009, at various locations throughout the State.

Pro Bono**Alyssa J. Mozingo**

Alyssa reported that a Pro Bono/Volunteer Interest Survey was forwarded to all NCPA members in an effort to determine whether members had an interest in participating in volunteer activities in the legal community as well as non-legal volunteer opportunities. Overall, members expressed a desire to participate in both.

Senior Editor**Melissa A. Rutledge, NCCP**

Melissa reported that the Fall Forum was just released.

Student/School Relations**Debby Sawyer, CP**

Debby reported that she and District II Director Beverly Johnston attended the paralegal student orientation at Meredith College and provided the students with written material about NCPA and also talked with them about becoming a student member. They were also allowed to speak to the orientation class and announced the Mid-Year Seminar. The students were very enthusiastic and seemed extremely interested in joining NCPA. They also provided the students with a heads up and information about the opening date of the Student Scholarship.

Technology**Brenda J. Mareski, CP**

It was discussed that our website was not on the membership application. Yolanda and Brenda will review the application to see if any other changes need to be made.

NEW BUSINESS

Next meeting is a teleconference on November 15, 2009, at 2:00 pm.

Non NCPA Member Discounts – We discussed offering a 10% discount to non-NCPA members who are members of our affiliated organizations who wish to attend our seminars.

When a new NCPA member passes the NCCP exam, in the spring they get half off their membership and in the fall they get their membership for free. Each new membership application will now be color coded.

President Clapper motioned to adjourn the meeting. The motion was seconded by Beverly Moore and carried by unanimous vote. The meeting adjourned at 3:20 pm.

**NCPA would like to extend its sincere thanks to the following companies,
without whose support our Mid-Year Seminar would not have been possible:**

Thank You For Your Support Of NCPA

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<p>Huseby, Inc. Litigation Support Contact: Debbie Lawrence 1230 West Morehead Street #408 Charlotte, NC 28208 (704) 333-9889; Fax: (704) 372-4593 debbielawrence@huseby.com</p>	<p><i>Gold Sustaining Member</i> Exhibitor Door Prize Hospitality Bag Items</p>
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<p>Kay McGovern & Associates Contact: Kay McGovern 314 West Millbrook Road #117 Raleigh, NC 27609 (919) 870-1600; Fax: (919) 870-1603 kay.mcgovern@kaymcgovern.com</p>	<p><i>Bronze Sustaining Member</i></p>
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<p>CastleBranch, Inc. Contact: Jamie B. O'Dell (888) 723-4263, ext. 7191 CertifiedBackground.com (888) 666-7788, ext. 7191 jbodell@castlebranch.com</p>	<p><i>Exhibitor</i> Hospitality Bag Items Door Prize</p>
<p>Key Title, LLC Contact: Debbie McLamb or Kelly Ashman P.O. Box 12088 Raleigh, NC 27605 (919) 783-5544; Fax: (919) 783-5557 dmclamb@keytitlellc.com kashman@keytitlellc.com</p>	<p><i>Exhibitor</i> Hospitality Bag Items Door Prize</p>
<p>Guilford Paralegal Association Contact: Elizabeth Vance, President P.O. Box 29183, Greensboro, NC 27429 (336) 884-4444 information@guilfordparalegalassociation.org</p>	<p><i>Exhibitor</i> Door Prize</p>

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<p>Ruffin Consulting, Inc. Transcription & Paralegal Services Contact: Bonnie T. Ruffin, NCCP (252) 235-4313; Fax: (252) 235-4375 bonnier@ruffinconsultinginc.com www.PhoneASecretary.com</p>	Hospitality Bag Items
<p>Mariposa Publishing Contact: Doug Walburg 1805 Buerkle Road St. Paul, MN 55110 (651) 773-5230; Fax: (651) 773-5233 doug@mariposapublishing.com</p>	Door Prizes

COMPANY/NAME	CONTRIBUTION
<p>National Association of Legal Assistants Contact: Krista Lower 1516 S. Boston, Suite 200 Tulsa, OK 74119 (918) 587-6828; Fax: 918-582-6772 klower@nala.org</p>	Hospitality Bag Items
<p>TASA (Technical Advisory Service for Attorneys) Contact: Pat Pinciotti (800) 523-2319 ppinciotti@tasanet.com dbeaty@dtiglobal.com</p>	Hospitality Bag Items



Brenda Mareski, CP and Yolanda Smith, ACP, NCCP



Melissa Stockley Jones CP, NCCP; Patti Clapper, ACP, NCCP; Stephanie Elliott-Park, NCCP; Brenda Mareski, CP; and Michele A. Tuttle, CLA, NCCP



Yolanda Smith, ACP, NCCP's presentation



Patti Clapper, ACP, NCCP - NCPA President

Filing a Trade Mark Application

By **Tim Mount**
 Trainee Solicitor
 Lawdit

A request for registration is generally a UK IPO form TM3 but a letter clearly stating that it is a request for registration of a trade mark may be sufficient.

The name of the applicant must be the correct legal name (particularly in the case of companies) and not a trading name or style. An application must include a list, or statement, of all goods and services for which an applicant uses or intends to use the trade mark. A class number is not essential for a filing date, but at least one must be provided before the application can proceed further. The specification will not be examined in any detail but if it is not clear the applicant may be contacted to clarify.

In order to proceed to examination the trade mark must be currently used by the applicant or with consent or there must be a bona fide intention to use it in relation to the goods or services (s32(3)). A declaration to this effect must be signed by the applicant or representative.

In addition for examination but not filing the applicant must pay a basic application fee covering the first, or only, class in the application. If the application did not come in on a TM3 the UK IPO allot a filing date and allow 2 months for the details to be input onto a TM3 and returned to them.

This is the same if any other filing requirements are not met. The applicant is sent a letter, stating why the application is not acceptable and allowing two months to remedy the deficiency. If the deficiency is not remedied within the two-month period, the application will either be deemed never to have been made, where there was a problem with essential requirements; or treated as abandoned, in respect of requirements not essential for a filing date.

The two-month period runs from the date the UK IPO issue the deficiency letter and cannot be extended (Rule 68(3)).

If the applicant is not based in the UK, and not represented by someone based in the UK, they must provide an address in the EC or EEA with which we can correspond.

In addition the UK IPO check to make sure that information on the application form is consistent and logical. Typical problems are that the number of marks in the series differs from the number of marks provided, there is an inaccurate priority claim, for example, based on earlier UK filings, there is a statement that the mark is a certification or collective mark but it does not appear to be so, there are obvious errors in the mark or specification; and mark type, if stated does not match the mark (3D mark for a 2D mark).

Most such inconsistencies are resolved by a phone call to the applicant or representative. However, it is the responsibility of applicant to ensure that they have completed their application form correctly.

The date of receipt of a postal application at the United Kingdom Intellectual Property Office (UK IPO), posted to the London or Newport office, will be used as the filing date of the application. Delivery can also be by hand. Fax applications may be received 24 hours a day.

Note that although Rule 67 of the Trade Mark Rules offers a discretion to allow the late filing of documents in particular circumstances, this only applies to documents sent in the postal services and which have to be filed within any period of time specified in the Act or Rules. This latter qualification means that the rule does not apply to new applications.

On receipt of a trade mark application the New Applications Section (NAS) of the UK IPO's Trade Mark Registry check that the application is valid. All applications must meet some essential requirements for filing before the application is given a filing date. These are that the applications must show a request for registration of a trade mark, the name and address of the applicant, a statement of the goods or services for which it is sought to register the trade mark, and a representation of the trade mark.

If it meets these requirements NAS record the details of the application in the Registry's database so that it is available for search and examination purposes, issuing the applicant (or representative) with a receipt confirming the application details. Other non-essential requirements for receiving a filing date must be met before an application is sent for registration, these are discussed in another reading room article.

If it does not meet requirements the applicant is notified of any deficiencies including, for example, wrong payments. If an application contains a very long description of goods or services in the specification the NAS may contact the applicant to ask for an electronic copy of the specification. This saves time in recording information and reduces errors, but will not affect the filing date of the application.

The applicant is then sent a filing receipt showing what information was recorded. The applicant needs to check the receipt and tells the NAS of any errors so that they can be corrected. Next a file is made up a file for the application and sent to a trade mark examination team.

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TRADEMARKS GENERALLY

By Mark B. Harrison and Rebecca A. Liebowitz
Venable, LLP

A traditional trademark is any word, phrase, symbol, or design (or combination thereof) used to identify the source of a product or service. In addition to these more traditional trademarks, a sound, scent or color can also function as a trademark if it identifies the source of a particular product or service.

There are three types of marks, presented in order of strongest to weakest: fanciful or arbitrary trademarks, suggestive trademarks, and descriptive trademarks.

- The strongest trademarks are either fanciful or arbitrary. A fanciful mark typically includes arbitrary letter and number combinations and terms with no meaning or translation. Although often difficult to market, these marks are usually easiest to register, and once established, will enjoy the highest level of protection under trademark law. Examples are EXXON, KODAK and MICROSOFT. An arbitrary mark is one comprised of recognized words, but the words are arbitrary as applied to the particular goods or services to which they are applied. Examples are LOTUS for software, BLACKBERRY for a pda, SATURN for autos and APPLE for computers.
- The next strongest trademarks are suggestive. A suggestive mark are those terms which suggest some feature, function, use, user, characteristic or trait of the products or services to which they are applied, but fall short of describing those features, traits or characteristics. Although these marks often do not receive the broad trademark rights that fanciful or arbitrary marks enjoy, they are usually entitled to federal registration and their owners may be able to exclude identical or similar marks in the same or related markets. Examples are HANDI WIPES for dusting cloths, PLAYBOY for magazines, ORANGE CRUSH for a soft drink, ROACH MOTEL for an insect trap and SHEER ELEGANCE for pantyhose.
- The weakest trademarks are descriptive marks. A descriptive mark are those terms which describe a feature, function, use, user, characteristic or trait of the products or services to which they are applied; terms which are "primarily merely surnames" or are geographic designations frequently fall into this category as well. These marks receive limited, if any protection under trademark law. As a general rule, they are not entitled to federal registration unless they develop "distinctiveness" in the marketplace, meaning that over time the mark has developed public recognition with consumers as a particular source of goods and services. Examples are STEAK & BREW for a restaurant, RAISIN-BRAN for cereal, E-FASHION for an internet service of providing fashion information, PIRELLI for rubber products, and MCDONALD'S for fast food restaurants.

Last are those terms which are the generic designations for the goods or services to which they are applied. Generic designations are not susceptible to exclusive appropriation or trademark protection. Examples are "apple" for a type of fruit (rather than when used arbitrarily for computers) and "bank" for a financial institution.

Trademark rights are established either through use of the mark in commerce, or by federal registration with the U.S. Patent and Trademark Office (PTO). It is also possible to file a state trademark application although the resulting rights are limited to that state and typically cannot be filed until actual use of the mark has begun. Unlike state trademark applications, a federal trademark application can be filed based on the applicant's bona fide intent to use the mark; however, the application cannot be accepted for registration until the

applicant shows actual use of the mark, at which time, the applicant's rights will date back to the original filing date of the application. A federal registration also provides additional benefits which common law rights and state registrations cannot afford, including: the presumption of ownership; the right to bring an action in a Federal court; the right to record the trademark with the U.S. Customs Service; and the right to use the mark nationwide.

FEDERAL TRADEMARK PROSECUTION

Trademark prosecution starts with the preparation and filing of a trademark application. When filing an application, at least the following information must be provided to the PTO: the complete name and address of the trademark owner; the trademark for which protection is sought; the goods and/or services on which the mark is in use or intends to be used; and payment of the official filing fee for at least one class of goods and services. The following information should also be provided at the time of filing but can be submitted later on if necessary: citizenship and entity type information of applicant; a bases (as described below); the date of first use together with specimens showing use (if based on use); and payment of the official filing fee for any additional classes covered by the application.

There are several different bases for filing a trademark application in the United States. The appropriate basis depends upon the circumstances of the applicant and may be a combination of more than one basis. The following are the most common:

1. Actual use of the mark in the United States: In this case, the application must provide the date of first use of the mark on the goods or services anywhere and the date of first use of the mark on the goods or services in the United States, as well as "specimens" (e.g., nameplates, tags, labels or cartons for the goods, or photographs of nameplates, tags, labels or cartons for the goods; advertisements, brochures or promotional materials for the services) which show use of the mark on or in connection with the goods or services. The date of first use and specimens can be provided after filing the application.
2. Intent to use the mark in the United States: In this case, neither specimens nor dates of use are necessary for filing the application, however, actual use of the mark in the U.S. is required before the U.S. registration can issue.
3. Foreign registration: An application can be based upon a foreign home country registration for the mark if the applicant is a foreign company or individual. In this case, a copy of the home country registration must eventually be provided to the PTO before the registration can issue, however, neither use of the mark in the U.S. nor specimens are necessary for either filing the U.S. application or obtaining the U.S. registration.

After filing, the application is reviewed by the USPTO to determine if it meets the minimum requirements for receiving a filing date. If the application meets the filing requirements, it is assigned a serial number, and an official filing receipt issues. If the minimum requirements are not met, the entire application, including the filing fee, is returned. Applications filed electronically are less expensive than those filed on paper and assigned a serial number instantly.

Approximately four to six months after filing, the application is taken up for examination. The Examiner determines whether the mark may be registered. If the Examiner determines that the mark cannot be registered, a letter (i.e., Office Action) issues listing any grounds for refusal and any corrections required in the application. Common grounds for refusing registration include

1. A likelihood of confusion between the applicant's mark and a prior filed or registered mark;
2. That the mark is merely descriptive of the goods or services listed in the application;
3. That the mark is a surname or a geographic term.

A response to an Office Action must be filed within six months of the date of the action, or the application will become abandoned. If the response does not overcome the Examiner's objections, the Examiner will issue a "final" refusal of registration. Final refusals of registration may be appealed to the Trademark Trial and Appeal Board.

If there are no objections, or if all objections and other issues are overcome, the mark is approved for publication and published in the Official Gazette. Any party who believes that it may be damaged by registration of the mark has 30 days from the date of publication to either file an opposition to registration of the mark or request an extension of time within which to oppose. If no oppositions or extension requests are filed, the application enters the next stage of the registration process.

If the application was based upon the actual use of the mark, if an Amendment to Allege Use of the mark was filed and approved prior to publication, or if the application was based upon a corresponding

home country registration, a Certificate of Registration will issue approximately 12 weeks after publication.

If the application was based upon the applicant's intent to use the mark in commerce, then a Notice of Allowance will issue approximately 12 weeks after publication. The applicant then has six months from the date of the Notice of Allowance within which to either make use of the mark and file a Statement of Use, or request an extension of time within which to file a Statement of Use.

Five extensions of six months each are possible, for a total of three years from the date of the Notice of Allowance.

Once an application is filed, there is no set time by which the Certificate of Registration will issue. The timeframe for prosecuting each application depends upon a variety of factors, including

1. The basis upon which the application was filed;
2. Whether there are any prior filed applications that must be disposed of first;
3. Whether any oppositions or requests for extensions of time to oppose are filed;
4. Whether the file is lost by the Trademark Office.

A U.S. trademark registration provides protection only in the United States and its territories. If protection for a trademark is desired in other countries, the owner must seek protection in each country separately under that country's relevant laws.

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