



THE GILES S. RICH AMERICAN INN OF COURT

November 13, 2013
Via Electronic Transmission

October 2013 Meeting Recap

The second meeting of the 2013-2014 Giles S. Rich American Inn of Court was held on Wednesday, October 23, 2013, at the U.S. Court of Appeals for the Federal Circuit. The Inn was pleased to be joined by the Pauline Newman IP Inn for a program entitled, “The E.U.’s Unified Patent Court,” led by Pupilage Group No. 2 leaders Patrick Coyne of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP and Allan Soobert of Paul Hastings, LLP. The presentation examined the development of European Union (E.U.) Unitary Patents and the prospects of a Unified Patent Court charged with overseeing European patent litigation.

Prior to the program, Inn President Kevin McCabe welcomed the Newman Inn, its members, and its President the Honorable Liam O’Grady, United States District Judge for the Eastern District of Virginia. Judge O’Grady in turn introduced Judge Newman and thanked her for her continuing support. Also in attendance was the American Inns of Court 2013-14 Pegasus Scholar, Gemma Davies, a Barrister from the United Kingdom. Ms. Davies described her recent activities during her scholarship in the United States and thanked the Inns of Court.

As the program began, pupilage leader Mr. Soobert introduced the evening’s two guest speakers: Charles “Chuck” Eloshway, Senior Patent Counsel at the USPTO, Office of Policy and International Affairs; and John Pegram, Senior Principal at Fish & Richardson, P.C. Mr. Eloshway presented on E.U. Unitary Patents and Mr. Pegram on the establishment of an E.U. Unified Patent Court.



Alan Soobert, Judge Liam O’Grady, Charles Eloshway, Judge Pauline Newman, John Pegram, Gemma Davies, Kevin McCabe and Patrick Coyne (l-r)

The evening’s presentations discussed numerous options for obtaining patent protection in the E.U. and detailed the distinctions between the existing European Patent Convention (EPC)



and the embryonic European Unified Patent Court. The presenters stressed the fact that not all EPC members are also members of the E.U., and covered a wide range of points, from E.U. patent protection, prosecution and adjudication, to application fees, translation requirements and costs, forum shopping, and the competency of IP judges. Both presenters discussed divergent strategies for obtaining optimal patent protection in individual national courts and patents or the European Patent Office (EPO) unified patents.



John Pegram and Judge Pauline Newman

Mr. Eloshway detailed the distinctions between E.U. unified and national patents and opined on discussions being held with the EPO on the importance of a modified fee structure for small business who wish to afford themselves of the same universal protection as larger corporate entities but who may lack the resources to do so. Mr. Pegram focused on the details of E.U. patent prosecution, including language requirements, discovery and bifurcated trial proceedings. Significant data was also shared on E.U. patent application volume and sources. His discussion of the new European Unified Patent Court covered venue, composition, and distribution of adjudication responsibilities. Mr. Pegram then took questions from the audience on the timeframe of E.U. patent harmonization, the development of the European Unified Patent Court, and the probability of English becoming the singular official registration language of E.U. unified patents.

Before closing the meeting and inviting attendees to a joint reception at the Tayloe House, President McCabe recognized John Witherspoon for receiving an award from the American Chemical Society.

We thank our wonderful guest speakers and Pupilage Group No. 2 setting up an informative presentation, and look forward to seeing you at the next meeting of the Giles S. Rich American Inn of Court; the topic will be *Myriad of 101* and will be held at the U.S. Court of Appeals for the Federal Circuit on **Wednesday, November 20, 2013**.



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Recap by Historian/Reporter Jeremiah Cottle and all photographs courtesy of Associate Historian/Reporter Charles Rones.