

FIRM NEWS – AIPLA ANNUAL MEETING SUMMARY

By: Kari Footland

The American Intellectual Property Law Association (AIPLA) Annual Meeting was held October 15-17, 2009 in Washington, D.C. with approximately 1500 professionals participating. The AIPLA Annual Meeting began with an introduction by the new Director of the USPTO, David Kappos, who was previously the vice president and assistant general counsel, intellectual property law, for IBM Corporation, and had spent 26 years with the company in various legal and IP roles.

Kappos recently rescinded the Final Rules Limiting Continuations and Claims imposed by the former administration. Kappos also recently implemented a program to award fewer points to examiners for subsequent RCEs and indicated more overall time may be added to examine applications and conduct interviews.

The first day of the AIPLA meeting continued with a look into the virtual world of copyrights and trademarks, with emphasis on trademark licensing, USPTO restrictions and export licenses and a discussion involving the balance between in-house and private practice attorneys, followed by discussions involving trends in inequitable conduct in patent litigation, litigating abroad with multiple parties, and courts and countries and trademark e-filing practices.

The inequitable conduct program included two attorneys representing opposite sides of the September 2008 *Praxair* case. The plaintiff's attorney noted that recent cases make it more difficult to prove inequitable conduct in prosecuting patent applications. The discussion concluded with words from Chief Judge Paul Michel of the Court of Appeals for the Federal Circuit, asking for assistance from patent attorneys in helping clarify inequitable conduct to the Court.

The second day of the AIPLA meeting continued with a discussion of best practices for patent and trademark prosecution, preparing agreements and resolving global trademark disputes. In the best practices discussion, a USPTO representative suggested that performing a prior art search, drafting independent claims of varying scope, and conducting interviews would all aid in faster prosecution of the applications. The AIPLA meeting concluded with a panel discussion of the Supreme Court and the Federal Circuit, including Chief Judge Michel, two former Solicitors General and a District Court Judge. Chief Judge Michel indicated that he looked forward to the review by the Supreme Court of *Bilski* in the next session and predicted that the Supreme Court will take more patent cases in the future.