

Merced County Bar Association



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Oct. 2017

President's Column

Darryl Young
Law Office of Darryl E. Young

Please come and join us on Nov. 2nd at noon at Bella Luna's for our monthly lunch - Judge Ash will be presenting on Juvenile Law.

Central California Legal Services is hiring. Please see their website at www.centralcallegal.org.

Kelsey Souders & Ramirez is renting attorney office space. If interested, the contact number is 209.722.3055.

Central California Legal Services is conducting a senior estate planning/wills clinic on 11/3/17 from 10 am to 2 pm at their Merced office. Attorneys interested in volunteering: Please contact Paul Mullen at pmullen@centralcallegal.org.

2017 MCBA OFFICERS

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Practice Notes From an IP Attorney

By George Leavell
Law Office of George B. Leavell, Merced, CA

Have you ever had a client mention they have a new idea they want to copyright, trademark or patent? There are significant differences in IP types.

Copyrights: can protect creative works such as photographs, stories, poems, songs, drawings, paintings and other artistic expressions. Copyright protection can last the author's life plus 75 years. There are many famous copyrighted works such as The Beatle's song "Yellow Submarine" and an Andy Warhol's painting of the Campbell's tomato soup can.

Some copyright protections attach as soon as the creative work is created. Some copyright protections require registration of the copyright.

Copyrights allow the author to license use of the work for a fee, and thus profit from his work.

A common dispute in copyrights occurs in works for hire and *who actually owns the copyright to the creative work.*

Trademarks and service marks: can protect a business' identifying marks in commerce, usually, for as long as the marks are used in commerce. The identifying marks can be words, artwork, shapes, sounds and even color and design schemes. Some of the most notable trademarks are the Nike "swoosh" symbol  and the "Coca-Cola" name and "*Coca-Cola*" in its distinctive, cursive script.

Calendar of Events

**November 2nd at Noon - MCBA
Lunch at Bella Luna Bistro: Speaker
- Judge Ash on Juvenile Law**

**December 21th at 6 p.m.- Holiday
Party at Bella Luna Bistro [Subject
to change]**

Friendly Reminders

It is not too late to join the MCBA. Original dues of \$110 can be prorated for the remainder of the year.

Anyone interested in joining can contact Tom Min at tmin1216@gmail.com for an application.

Download a Member Application on the member's resources page of our website: www.mercedbar.org/member-resources/

Some common law trademark protections attach as soon as the mark is used in commerce. Most enforcement rights require either or both State or Federal registration of the mark.

The value of a mark is that the mark identifies the mark's owner, in the minds of consumers.

A common pitfall is for a startup or local business to *fail to search a mark before* investing large sums and/or time in developing a mark recognition in the business' local market, then discovering there is a much larger company that has been using that same or similar mark for many years... thus preventing growth of the company. The larger company may force the local business into financial ruin through disputing the use of the mark.

Trade Secrets: can protect secret processes and formulas, but only for as long as the processes and formulas are strictly controlled and kept secret. One of the most famous trade secrets is the secret formula for Coca-Cola that has been maintained secret in a vault for over 100 years.

A common trade secret pitfall is failing to properly protect the secrecy of the trade secret. There are *many specific protective actions that must be in place at all times* to protect a trade secret.

Patents: can protect new and non-obvious devices and processes for a limited period of time.

The first person to file the patent application may receive a patent, even though they are not the first to invent!

The best advice is to *keep the new and non-obvious idea SECRET FROM EVERYONE* that is not covered by some confidentiality agreement, until the patent application is filed.

Other disclosures such as offers for sale, publications of the ideas, pitches to investors...

Thank you for your 2017 membership:

Vincent Andrade, Casey Aitchison, Eric Beiswanger, Geraldine Brown, Corbett Browning, Beau Correia, Betty Dawson, Gabriel Delgado, Maile Dunlap, Thomas Ebersole, Skye Emery, James Fincher, David Foster, Doug Foster, Carlos Fuentes, Shawn George, Arthur Godwin, Jeff Grant, Janinda Gunawardene, Melbourne Gwin, Emily Haden, Robert Haden, Kyle Hampton, Forrest Hansen, Ann Hanson, David Haycraft, Kimberly Helms, Bruce Hendricks, Raymond Isleib, Thomas Keene, Claire Lai, George Leavell, Nini Lee, Thomas Lewis, Kenneth Mackie, Weldon Mattos Jr., Richard Marchini, Roger Matzkind, Sean McLeod, C. Logan McKechnie, Phillip McMurray, Derek Meyer, Thomas Min, Cindy Morse, Paul Mullen, Christine Parraz, Thomas Pfeiff, Diane Rathmann, Kenneth Robbins, Matt Serratto, Shane Smith, Bruce Sousa, Stuart Spencer, Karen Spinardi, James Stone, Anne Taylor-Boreham, Ralph Temple, Samuel Tenenbaum, Rick Wallace, Alfred Whitehurst, Charles Wilson & Darryl Young

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can result in loss of patentability for even the best, most novel and creative new ideas.

When in doubt, advise your clients to ***contact an IP professional before disclosing their potential IP***, regardless of type of IP.

Court News

By Tom Min
Secretary

News from the Superior Court:

The Proposed Local Rules are out for public comment.

Please see the court's website at:

<http://mercedcourt.org/>

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