



DELBERT HOSEMANN
Secretary of State

**2010 Business Reform Study Groups
Minutes of the Technology and
Intellectual Property Laws Study Group, Meeting #4
September 28, 2010**

The fourth meeting of the Technology and Intellectual Property Laws Study Group (hereinafter the “Study Group”) was called to order on Tuesday, September 28, 2010 at 11:10 A.M. at the Office of the Secretary of State, 401 Mississippi Street, Jackson, Mississippi. A list of attendees is attached as Exhibit A.

Welcome

Cheryn Baker, Assistant Secretary of State for the Division of Policy and Research, welcomed everyone to the meeting and thanked David Pharr and Wendy Mullins of Bradley Arant Boult Cummings, LLP for sponsoring lunch for the Study Group.

Minutes

Minutes from the third meeting of the Study Group were provided to the attendees and were subsequently approved. The minutes are attached as Exhibit B.

Subgroup reports

Baker introduced Doug Jennings, Senior Attorney for the Secretary of State’s Division of Policy and Research. Jennings thanked the members for their continued participation and asked Whit Rayner to present the report of the Uniform Trade Secrets Act and Right of Publicity subgroup.

Subgroup 1 - Mississippi Uniform Trade Secrets Act & Right of Publicity

Rayner provided the group with a document entitled “Proposed Revised Mississippi Uniform Trade Secrets Act (UTSA),” which is attached as Exhibit C. Rayner requested that Jennings provide an update of the subgroup’s recent revisions to the proposed amendment to Miss. Code Ann. § 75-26-11, which addresses the preservation of secrecy during litigation.

Jennings raised the concern of proposed Miss. Code Ann. § 75-26-11(2)(a), which requires that, in order to gain discovery of a designated trade secret, the proponent must show that “[t]he allegations in the initial pleading setting forth the factual predicate for or against liability have been plead with particularity[.]” In response to concerns that this language would require a party to amend their initial pleadings, the subgroup agreed to remedy this concern by removing the word “initial.”

A Study Group member raised the concern of the language in Miss. Code Ann. § 75-26-11(2) which states “designated by its holder as a trade secret.” It was suggested that this language be changed to “demonstrated to be a trade secret.”

There being no more discussion on this topic, Jennings offered to make the suggested changes and provide a revised copy to the Study Group at its meeting to be held on October 12, 2010.

Mr. Rayner then introduced his subgroup’s proposed Mississippi Right of Publicity Act (the “RPA”), which is attached as Exhibit D. Rayner and Jennings then guided the group through the draft RPA section by section.

There was a discussion of determining what is “artistic, expressive, informational, or similar work” as provided in Section 4(2)(d) of the RPA. A Study Group member suggested adding to this section the language “except where the use is directly connected with a commercial sponsorship.” The Study Group agreed with this addition.

The Study Group also discussed whether to adopt an exception to the right of publicity statute for the unauthorized use of a person’s image or likeness in connection with the efforts of state or local government to promote travel and tourism in Mississippi (see Section 4(2)(i)). After some discussion, the Study Group decided to remove the language “to promote travel and tourism” but to leave the rest of the language in this subsection intact.

Subgroup 2 – Computer Issues

Mr. Jennings introduced Jerry Hafter to present his subgroup’s report. Mr. Hafter stated that he had spoken to several people across the country that are familiar with this subject. These persons have indicated that they are willing to help the group in its efforts to codify portions of the Principles of the Law of Software Contracts and to draft other innovative provisions if desired. Hafter also said it was most likely that a recommendation from his subgroup would not be forthcoming before the 2011 legislative session begins.

Subgroup 3 – Incentives

Mr. Jennings next introduced Angela Grayson who was present by teleconference to present the report from the incentives subgroup. First, Ms. Grayson stated that the subgroup had recommended allocating funds to the Mississippi Development Authority (MDA) for purposes of marketing to encourage graduates and former residents to come back to Mississippi. Grayson said the subgroup had also recommended incentives to encourage airlines to pick up more flights in Mississippi.

Next, Ms. Grayson reported that the subgroup had recommended setting aside a portion of the Public Employees Retirement System portfolio to be managed by Mississippi-based financial institutions. Grayson also relayed the subgroup's recommendation that intellectual property assets be included in determining whether businesses relocating to Mississippi meet the threshold amounts for financial incentives awarded by MDA.

Ms. Grayson next addressed research and development incentives that her team had recommended. She stated that the state has great workforce-development training programs in place, but they are not well-publicized and are therefore underused. Grayson recommended allocating funding through the MDA to help increase awareness of these programs. Grayson also reported that her subgroup had recommended adopting tax-credit legislation like that in Louisiana for recipients of federal Small Business Innovation Research grants.

At the conclusion of Ms. Grayson's report, Secretary Hosemann noted that the idea of setting aside a portion of the PERS portfolio to be managed by Mississippi institutions had been attempted before, but that the plan had not worked as planned. He advised against the adoption of such a measure.

Conclusion

Baker stated that the next, and most likely final, meeting of the Study Group was scheduled for October 12, 2010, and that the subgroups would be making their final reports and recommendations at this meeting. There being no additional business, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Doug Jennings
Mississippi Secretary of State's Office
Senior Attorney, Division of Policy & Research

EXHIBIT A

**to the Minutes of the Technology and Intellectual
Property Laws Study Group, Meeting # 4**

September 28, 2010

Members and Guests in Attendance:

1. Stephen Clay
2. Bruce Deer
3. Danny Drake
4. Anders Ferrington
5. Jerry Hafter
6. Scott Hamilton
7. Brandt Howell
8. Dr. Henry Jones
9. Peter Marks
10. Whit Rayner
11. Otis Tims
12. Anne Turner

Members Attending by Telephone:

1. Paul Barnes
2. Meaghin Burke
3. Angela Grayson
4. Tony Jeff
5. Wendy Mullins
6. Anita Modak-Truran
7. Will Wilkins

Secretary of State's Staff:

1. Delbert Hosemann, Secretary of State
2. Cory Wilson, Chief of Staff
3. Cheryn Baker, Assistant Secretary of State, Division of Policy & Research
4. Doug Jennings, Senior Attorney, Division of Policy & Research
5. Justin Fitch, Attorney for Elections & Policy

EXHIBIT B
(Minutes from Third Meeting)

EXHIBIT C

“Proposed Revised Mississippi Uniform Trade Secrets Act (UTSA)”

EXHIBIT D

Mississippi Right of Publicity Act (the “RPA”)