



Contact

Publication of the Cleveland Section of the Institute of Electrical and Electronics Engineers.

New Cleveland Section Chapter: MEDICAL IMAGING CLEVELAND

The inaugural meeting of Medical Imaging Cleveland—a joint societies chapter encompassing Engineering in Medicine Biology, Signal Processing, Nuclear and Plasma Sciences Computer Society is scheduled for December 4, 2000. Join us at the Flat Iron Café in the Flats at 6 p.m. for dinner (order from regular menu). There will be an organizational meeting from 7 to 8:30 p.m. in the small meeting room upstairs.

Flat Iron is on the east bank (south end) of the Flats, on the corner of Center Street and Old River Road. Parking is free in their lot just east, down Center Street, from the restaurant.

Please contact Raymond Muzic at muzic@ieee.org, or 216-844-3543, if you would like to attend so that we can plan accordingly. All are welcome.

Officer Nominations Banquet Announcement

Join the IEEE Cleveland Section as we hold the 2001 Officer Nomination Banquet. This year's event will be on Thursday, November 30th, at Parker's Restaurant and Bistro Bar, 2801 Bridge Avenue, 216-771-7130. Social hour will be from 6-7 p.m., with dinner from 7-8 p.m., and presentations from 8-9 p.m. The cost is \$15 per member, \$10 per student member.

Parker's is a small temple to local produce, the kind of restaurant any city would be lucky to claim. From his command post on a pretty 19th-century style block, French-trained chef Parker Bosley cultivates a network of northeastern Ohio farmers to supply his intensely seasonal menu. At the banquet, we are honored to have Parker Bosley as our guest speaker. Mr. Bosley will talk about the latest concerns regarding agricultural pollution.

Please call Carl Dister at 440-255-2977, ext. 739 for reservations, or e-mail him at carldister@ieee.org.

November

CLEVELAND ENGINEERING SOCIETY EVENTS CALENDAR

For more information please contact CES at (216) 361-3100, or log on to cesnet.org. Payment for individual registrations for all programs must be made prior to day of event.

Nov. 1 - Tour of STERIS Corporation

Presented by the CES Management of Technology (MoT) Division. Attendees will tour STERIS Corporation's research and development laboratories. Tour is at STERIS' Heisley Road facility in Mentor. For detailed directions, contact CES. Cost is \$25 for CES members, \$35 for non-members, \$10 for students. Program is from 6 to 8 p.m.

Nov. 3 - Northern Ohio Remediation Conference

Presented by the Cleveland Engineering Society, the Air & Waste Management Association (AWMA), and the Northeast Ohio Chapter of the Academy of Certified Hazardous Materials Managers (NEOCHMM). The conference will feature government insight, case studies, new technologies, and industrial perspectives on pressing industry issues. Program is 8 a.m. to 1 p.m. at the Unified Technologies Center, 2415 Woodland Ave. Cost is \$100 for members, \$115 for non-members.

Nov. 7 - Leadership Breakfast Series, featuring Manuel Glynias (president and CEO, NetGenics, Inc.)

The 2000-2001 CES Leadership Breakfast Series presents Manuel Glynias, president and CEO of NetGenics, Inc. Founded in 1996, NetGenics builds integrated informatics solutions that enable researchers to extract meaningful information from life science data in the development of new drugs, gene therapies and agricultural products. Program is from 7:30 to 9 a.m. at the Holiday Inn in Independence, at I-77 and Rockside Road. Cost is \$25 for CES members, \$30 for non-members, \$15 for students. Series packages and table reservations are available.

Nov. 17 - 4th Annual CES Northern Ohio Energy Conference

The CES Energy Division presents the 4th Annual CES Northern Ohio Energy Conference, "Your Energy Choices: Design Elements & Emerging Technologies". Keynote Presentation will be delivered by Douglas S. Elliott, vice president of sales, marketing and energy services at FirstEnergy, Corp. Conference is 7:30 a.m. to 4:30 p.m. at Executive Caterers at Landerhaven. Cost is \$149 for members, \$175 for non-members. Conference is worth four CLE credits.



IEEE Cleveland Section CHAIRMAN'S COLUMN

by Allen Morinec

As my term as Chair of the IEEE Cleveland Section comes to a close, I have reflected on the goals, successes and failures of the IEEE Cleveland Section. The good news is that our Section is alive and flourishing with many individuals presenting successful programs. Like many other sections across the U.S., we are struggling to maintain contact with our members because of incorrect and missing e-mail addresses and to operate as a whole and less as individuals.

I would like to thank our officers for volunteering their valuable time in serving the Cleveland Section. Carl Dister, Ray Heintel, Jim Sens, Bill Schultz, Ted Lapponi, Mike Branicky, Vincent Lalli, Steven Phillips, Dick Carlson, Marilyn Greene, Jeff Greene, Ray Muzic and Ben Malakooti volunteered many hours to run successful programs and to ensure the continued well being of the Cleveland Section.

Remember that our Officers Nomination and Holiday Banquet will be held on November 30th at Parker's Restaurant and Bistro. Spouses and guests are highly encouraged to attend this formal event!

Here is a list of the successful programs, which our Section sponsored this year:

- Bill Schultz - Cleveland Section Engineer of the Year
- High School Science Fair Competition
- National Engineers Week Banquet
- Student Professional Activities Conference at CSU - 46 in attendance
- Awarded 11 Millennium Medals in our Section
- Family Picnic at Pioneer Waterland
- Joint meeting with Akron Section at GE Lighting, Nela Park
- New Senior Members
- New Medical Imaging Chapter
- Proposed IEEE AutoTest Conference 2004 in Cleveland

Finally, I would like to thank my wife Jill for allowing me to take away time from our family, and also her time to attend functions and serve the Cleveland Section with e-mails, articles, and other duties.

Haven't Received the Cleveland "Contact" Lately? We Need Your E-mail Address!

The IEEE Cleveland Contact has not been regularly mailed through the US Post Office since 1998. Currently, we publish two hard copy (print) versions per year. It is usually posted electronically on the Cleveland Section Web page, found at <http://www.ewh.ieee.org/r2/cleveland/> to keep our finances under budget. If you have not been receiving a newsletter posting or information from us, it is because we do not have your correct e-mail address.

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The Irresistible Force Meets the Immovable Object

By Michael Garvey

A local business, say a donut shop in Parma called Sunrise Donuts, uses its trademark without bothering to register it. A regional chain later chooses the same name, unaware of the Parma shop and obtains a U.S. Trademark Registration. The regional chain has several Sunrise Donuts shops in New England. After five years, the registration becomes incontestable.

Then, the New England chain, riding a wave of national enthusiasm for donuts, decides to expand. It opens shops across the country, including one in Brook Park. People start asking the owner of the Parma shop about her new shop in Brook Park. She says "What new shop?"

Trademark rights in the U.S. are based primarily on use of the mark. The first person to use a distinctive mark on a product is entitled to prevent others from using the same name on the same type of product. The rights are automatic. This is unlike a patent right, which can only be obtained by an express grant from the government.

The government does, however, grant trademark registrations. These serve several purposes. Mainly, they provide notice to the public of your claim of rights in a particular mark. The Trademark Office records are a single source to which people can turn to determine whether a trademark is being used. This only works, however, if everybody registers his or her marks. Therefore, there are incentives for registration.

The registration is evidence of ownership, which means that an unregistered user claiming superior rights must prove those rights. The registration enables the owner to sue for infringement in federal court, whereas an unregistered user may have to sue in state courts, which are typically not as familiar with trademark law and not as efficient as federal courts. A registration owner can also use the "R in a circle", which makes the mark appear more legitimate.

When a trademark has been registered and used continuously for five years, the registration can be made "incontestable". This means that the registration can be cancelled only if it was obtained fraudulently or if the mark has been abandoned.

But what happens when a prior user meets an incontestable registration?

The prior user claims superior rights based on earlier use. The registration owner claims superior rights based on registration. Normally, the earlier use prevails. But earlier use is not a basis for canceling the incontestable registration.

In the donut shop example, the likely result is that the New England chain will be prohibited from expanding into the Parma shop's geographical market. Similarly, the Parma shop would be prohibited from expanding beyond

its existing geographical market. The Parma shop could, if it wanted, obtain a concurrent registration limiting its geographical use. Thus, there would be two registrations for the same mark used for the same products.

Another example delineates a more difficult problem when both the prior user and the registration owner have overlapping geographical use, perhaps even national use. For some reason, they coexisted for five years or more until one learned about the other. Since they cannot be limited by geography, the outcome of such a dispute is uncertain. A court may look at whether either party has changed the nature of its use to create the conflict. If there has been a change, the court may require the parties to revert to what they did before the conflict arose. If not, the court could decide one user's rights are superior or permit both parties to continue using the marks however they wish on the basis that they coexisted for five years.

These types of conflicts are being discovered more frequently now that even the smallest businesses are appearing on the web and registration owners are discovering them. Perhaps the courts will provide more guidance in the next few years.

Michael Garvey is a patent attorney with Pearne & Gordon LLP.

We Need Your Articles By the 20th!

In order to get the "Contact" to all our members at the beginning of each month so that you don't miss a single event, we need your help. Send your articles via e-mail to the editors at jgreene327@aol.com or m.greene828@aol.com. by the 20th of the preceding month. Let us know about meetings, tours and events coming up the following month. Publicize your happenings to get greater attendance. Your fellow members want to hear from you.

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◆ Electronic Systems

◆ **MLE: Microwave Theory &
◆ Techniques/Lasers &
◆ Optoelectronics/Electron
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◆ ***Medical Imaging Chapter:
◆ Signal Processing/Nuclear and
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◆ **The line is open twenty-**
◆ **four hours per day.**

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