

Rules Governing the 2009 Giles Sutherland Rich Memorial Moot Court Competition

General Provisions

1. Organization of the Competition

The Giles Sutherland Rich Memorial Moot Court competition is named for the late Honorable Giles Sutherland Rich, Circuit Judge of the United States Court of Appeals for the Federal Circuit. The competition, comprising regional meets in various cities across the nation and a national final meet in Washington, DC, is an annual inter-law school event sponsored by the American Intellectual Property Law Association (AIPLA). There is no entry fee for the competition. The competition is made possible through the volunteer service of attorneys, judges, and AIPLA professionals.

2. Scope of Rules

These rules apply to both the regional and national competitions.

3. The Competitions

Four regional competitions will be held over three days in March (**March 20-22, 2009.**) The top two teams from each region will compete in the national competition over two days in April (**April 22-24, 2009.**)

4. Teams

Each participating law school may enter as many as two teams by service of brief under Rule 7(a) but no more than one team from any school will qualify to argue orally unless there are less than eight teams in a region or the regional director decides that the affected region can accommodate more than eight teams. No school shall be represented in more than one region. A team may be entered in any region, and may transfer to a different region upon consent of the regional director of the new region. Each team shall be composed of two and only two members. No substitution in the membership of a team is permitted after submission of the briefs, but one member of a team may argue the entire case if the other member is unable to appear. Each member of the team must be a candidate for the degree of L.L.B. or J.D. from the school that he represents at the time of the competition. The teams may be selected on any basis satisfactory to the school.

Participants' Notice and Service Requirements

5. Service

All requirements of notice and service are fulfilled by mailing the briefs and notices on or before the due date, by certified mail, return receipt requested, or by Federal Express or other overnight courier service, or by electronic mail. Electronic mail may not be used for service on the regional and national directors (see Rule 7).

6. Notice of Intent to Participate

Each team that desires to participate in the competition shall notify a regional director listed in Appendix A no later than the fourth Friday in January (January 23, 2009) of its intent to participate

in the competition. Each team shall also serve a copy of this notice on the national director, also listed in Appendix A, no later than January 23, 2009. The notice shall include the information detailed in Appendix E, including the school name and address, team member names, personal mailing addresses (not Post Office or Law School box numbers), day and evening telephone numbers, and e-mail addresses; and team coach or advisor name with mailing address and e-mail address. If the notice is handwritten, the hand writing must be legible. Note that team members and coaches are required to disclose any law firm with whom a team member or coach may be affiliated (including current employment, past and future clerkships, etc.)

7. Service of Briefs

a. Regional Competition

- i. Thirteen copies of each brief will be served on the regional director and one copy of each brief will be served on each other team in the region on or before February 2, 2009. Per Rule 5, teams may be served electronically but the regional director must be served with hard copies. In providing hard copies, teams are encouraged to use overnight or two-day courier to ensure timely delivery of briefs.**
- ii. If a team transfers to a new region after February 2, and has otherwise complied with these rules, it will serve 13 copies of each brief on the new regional director and one copy of each brief on each other team in the region by February 13. Upon receipt of the briefs by the other teams in the region, each will immediately serve one copy of each of their briefs upon the new team.**

b. National Competition

Ten copies of each brief will be served on the national director and one copy of each brief will be served on each other team in the national competition immediately upon notification of the pairings for finals, but no later than April 6. Per Rule 5, teams may be served electronically but the national director must be served with hard copies. **In providing hard copies, teams are encouraged to use overnight or two-day courier to ensure timely delivery of briefs.**

Director's Notices

8. The appropriate regional or national director shall notify the participants of the following:

- a. By January 30, the names and addresses of the teams in the region will be sent to each team in the region.**
- b. By March 13, the initial pairings, along with the location and time of the regional competition, will be sent to each participating team. The initial pairings shall be based on brief scores (*i.e.*, the team with the highest overall brief score will face the team with the lowest overall brief score).**
- c. The regional directors shall notify the national director of the brief and argument scores for the teams from their respective regions that will be participating in the national competition.**
- d. By March 30, the names and addresses of the teams in the national competition will be sent to each participating team.**

- e. **By April 6, the initial pairings, along with the location and time of the national competition, will be sent to each participating team. The initial pairings shall be assigned randomly, but in no event shall a team that finished first in a region be required to meet another team that finished first in a different region. In addition, the initial pairings shall not pair two teams from the same region (e.g., the second place team in the Northeast shall not face the first place team in the East in the initial round).**

Team members and advisors should not telephone the directors to request the above information unless it has not been received within 5 days after the above dates.

Briefs

9. Subjects of Briefs

Each team must submit a brief for each side of the problem. Both members of the team must substantially participate in the preparation of the team's briefs.

10. Form for Briefs

- a. **Briefs will conform generally to Rules 28 and 32 of the Rules of the U.S. Court of Appeals for the Federal Circuit, unless otherwise provided in these rules.**
- b. **Briefs will be typewritten, double-spaced on 8-1/2" by 11" paper with a margin of at least one inch on all sides. Briefs shall use a 12 point Courier font. Character spacing shall be at the standard setting, for a total of 10 characters per inch (no more than 65 characters per line of regular text). Line spacing or character spacing that results from a word processing program's "shrink-to-fit"-type function, or similar manipulation of line or character spacing settings, is a violation of this rule.**
- c. **Citations are to be in accordance with the standards set forth in the most recent edition of "A Uniform System of Citation," published by the Harvard Law Review Association. Parallel citations to the United States Patent Quarterly are no longer required. See Fed. Cir. R. 28(e).**
- d. **No addendum or appendix under Rule 28(a)(12) is required.**
- e. **The official problem for this competition is mailed to law schools and is also posted on AIPLA's website, www.aipla.org. Any reference to the record must be to the official problem.**
- f. **Notwithstanding Rule 10(a), above, both Appellant and Appellee briefs should include a jurisdictional statement and statements of the issues, the case, the facts, and the standard of review.**

11. Length of Briefs

Each brief is limited to 30 pages, exclusive of the certificate of interest, table of contents, table of authorities and proof of service.

12. School and Team Member Names

The team's school name and address shall not appear on the briefs. The names of the team members will appear on the briefs as counsel for appellant or appellee. In addition, the names of the schools and addresses for all participating teams shall not appear on the briefs, including the proof of service.

13. Changes in Briefs

No changes in the briefs will be permitted after they have been served on the regional director, including correction of typographical errors.

Oral Argument

14. Time

Each team may take up to 30 minutes for its argument.

15. Allotment of Time

Each team may allot its time as it sees fit, but each team member present must argue for a minimum of 10 minutes.

16. Exhibits

No charts, diagrams, or other visual aids shall be used during oral arguments.

17. New Arguments

No arguments shall be made during oral argument which were not made in a team's brief, except in response to arguments made by opposing counsel in their brief or oral argument, or in response to questions from the judges during oral argument.

Structure of the Competition

18. Number of Teams

All teams submitting the required briefs, on time, will be permitted to participate in the regional oral competition, except as provided by Rule 4.

19. Assignment of Sides

The director shall structure the competition as much as practical to permit the teams to argue both sides of the case.

20. Consolation Round

Normally, the competition will be single elimination. If practical, however, the losers in the first round will meet the next day in a consolation round.

21. Closed Competition

This competition shall be a closed competition, meaning that only those involved in a particular round shall be present in the courtroom during that round. The phrase "those involved in a particular round" is limited to competition personnel, judges, students competing in the round ("competing students"), coaches, family members, friends, and classmates of the competing students, so long as

the family members, friends, and classmates are not themselves competing. No other parties (e.g., other teams, other students, other coaches) shall be allowed to view arguments in which they are not considered “involved” for purposes of the Rule. This Rule does not apply to the final round of the regional and national competitions or to teams that have been eliminated in previous rounds of the competition.

Judges and Judging

22. Number of Judges

Each panel will include three Judges.

23. Order of Presentations

The Chief Judge of each panel will decide whether or not to hear each issue separately. The bailiff should be informed shortly before the argument of the court’s desire so the timing arrangements may be made with the teams.

24. Teams Anonymous

The Judges will not be told which school each team represents until after they have rendered a decision.

25. Selection of Winners

In the regional competition, each panel for an oral argument shall judge only the oral arguments of the teams appearing before it. A separate panel of judges will grade the briefs prior to the oral arguments in the manner described in Appendix D attached hereto. The brief scores for the side argued by each team will be provided to the panel after the oral argument. In the national competition, each panel for an oral argument shall judge both the briefs and oral arguments of the teams appearing before it. In both of the regional and national competitions, after oral argument the panel will select a winner giving equal weight to the briefs and oral arguments. In both the regional and final competitions, briefs and arguments will be judged based upon the criteria set forth in Appendices B and C attached hereto. The MERITS of the case will not be considered. It is the responsibility of the Regional and National Directors to provide the judging criteria to all judges in advance of the competition.

26. Announcement of the Winner

After announcing the winner, each judge is encouraged to critique candidly the briefs and oral arguments. Also, each judge is encouraged to write marginal comments on the briefs and to return the briefs to the teams after the critique.

Miscellaneous

27. Modification of Rules

The appropriate director may modify any of the Rules in the interests of justice. A violation of any of these rules may result in a penalty or disqualification. Absent a showing of extreme circumstances, violation of either the service (Rule 7) or length of brief (Rule 11) requirements will result in DISQUALIFICATION. The director has complete discretion in enforcing the rules.

28. Outside Assistance

Outside assistance rendered to a team in the preparation of its briefs and oral arguments, whether from faculty members, practicing attorneys, or law students, shall be limited to general discussions of the issues, critiques of briefs and oral arguments, and coaching of oral arguments held during intramural eliminations or during this or other moot court competitions. This rule is intended to insure the effectiveness of one of the most important purposes of this competition, i.e., development of the art of appellate advocacy through the team's own work.

29. Interpretation of Rules

Requests for interpretation of these rules should be addressed to **Thomas Bilodeau**, member of the Young Lawyers Committee of American Intellectual Property Law Association, listed in Appendix A. Such interpretations are binding only if obtained in writing from that individual.

Appendix A

Regional Directors

Region No. 1—Northeastern

Thomas M. Johnston
Holland & Knight, LLP
10 St. James Avenue
Boston, MA 02116
(617) 573-5805
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EMAIL: thomas.johnston@hklaw.com

Region No. 2—Midwestern

Kevin E. Noonan
McDonnell, Boehnen, Hulbert & Berghoff
300 South Wacker Drive, 32nd Floor
Chicago, IL 60606
(312) 913-0001
(312) 913-0002 (FAX)
EMAIL: noonan@mbhb.com

Region No. 3—Southern

Norma N. Bennett
Fish & Richardson P.C.
1 Houston Center
1221 McKinney Street, Suite 2800
Houston, TX 77010
713-654-5311
713-652-0109 (FAX)
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Region No. 4—Western

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Morrison & Foerster LLP
755 Page Mill Road
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National Director

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For Interpretation of the Rules, Contact:

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APPENDIX B: BRIEF JUDGING FORM

TEAM: _____

BRIEF: Appellee (RED) ____

Appellant (BLUE) ____

	<u>Points Available</u>	<u>Points Granted</u>
I. <u>SUBSTANCE</u>		
A. Positions are persuasively argued and the argument goes directly to key issues without dwelling unduly on minor issues.	20 pts.	_____
B. All issues are treated adequately.	15 pts.	_____
C. Reasonable number of authorities are cited.	10 pts.	_____
D. The authorities cited are the leading authorities on the point for which they are cited.	15 pts.	_____
E. Every important point supported by authority or the absence of authority is adequately explained.	10 pts.	_____
F. Cited authorities hold as indicated.	10 pts.	_____
II. <u>FORM</u>		
Following of instructions for brief format and proper citation of authorities according to the most recent edition of "A Uniform System of Citation" (popularly known as "the Harvard Blue Book").	20 pts.	_____
TOTAL --	100 pts.	_____

APPENDIX C: ORAL ARGUMENT JUDGING FORM

TEAM: _____

	<u>Points Available</u>	<u>Points Granted</u>
I. <u>CLARITY</u>		
Presentation is readily understandable	20 pts.	_____
II. <u>ORGANIZATION</u>		
States nature, brief history, facts and rules of law relied on in good order. Knows record from cover to cover.	20 pts.	_____
III. <u>BREVITY</u>		
Illuminates best-point; presents non-exhaustive report.	20 pts.	_____
IV. <u>COURTESY</u>		
Answers all questions directly and promptly with good manner; does not evade.	20 pts.	_____
V. <u>PRESENTATION</u>		
Manner of presentation, including stance, tone of voice, enunciation, speed of presentation, and articulateness in response to questions.	20 pts.	_____
TOTAL --	100 pts.	_____

Appendix D

Structure of Regional Competition

The regional director is responsible for structuring the regional competition in accordance with Rules 8b and 18-20. The regional director shall notify the participants of the structure of the competition when the initial pairings are sent pursuant to Rule 8b.

Brief Grading Procedures for Regional Competition

The briefs will be graded by a panel of judges that does not judge the oral arguments. This panel will have at least three judges, and preferably four judges, grade each brief, and the scores for that brief will be averaged. It is preferable to have all briefs on one side graded by the same judges, unless the number of briefs becomes excessive. Each team will have a separate average score for its appellate and appellee briefs. The competition brief judging form (Appendix B) will be used to score each brief. The average grade computation will be rounded off to one digit after the decimal place. For example, an average score of 91.333 would be rounded off to 91.3. A score of 91.354 would be rounded off to 91.4.

The judges hearing oral arguments will be given a copy of the briefs on the sides being argued in order to familiarize themselves with the issues presented by these advocates. They shall not grade the briefs. Alternatively, a bench brief may be provided to the judges.

The judges hearing the oral argument shall not see the brief grades until after the oral argument is completed. Each judge will score the argument just concluded using the competition oral argument judging form (Appendix C). The winner will be determined by averaging the oral argument scores, and adding to that score the average brief score for the side argued. The computation will be taken to one digit after the decimal point, including rounding off the score. The team with the highest total score is the winner of the argument. In case there are two teams with the same total score, the team with the highest oral argument will be the winner.

Recognition for Special Achievements in Regional Competition

As soon as convenient after completion of the competition, the regional directors will notify all teams in their region of the teams receiving the following special recognition:

Best Appellant Brief (highest score on that brief),

Best Appellee Brief (highest score on that brief), and

Best Advocates (highest score in the first round of the competition for oral argument).

APPENDIX E
NOTICE OF INTENT TO PARTICIPATE
in

**AIPLA's 36th Annual Giles Sutherland Rich
Memorial Moot Court Competition**

(Please Type or Print Neatly or Provide Requested Information by Email)

School Name: _____

****Please circle one address (including email) to be used for service**

TEAM 1

First Team Member:

Name: _____

Home Address: _____

Day telephone: _____

Evening telephone: _____

Fax: _____

Email: _____

Affiliations with firms:

Second Team Member:

Name: _____

Home Address: _____

Day telephone: _____

Evening telephone: _____

Fax: _____

Email: _____

Affiliations with firms:

Team Coach/Advisor:

Name(s): _____

School mailing address (for service of briefs)

Telephone: _____

Fax: _____

Email: _____

Affiliations with firms:

TEAM 2

First Team Member:

Name: _____

Home Address: _____

Day telephone: _____

Evening telephone: _____

Fax: _____

E-mail: _____

Affiliations with firms:

Second Team Member:

Name: _____

Home Address: _____

Day telephone: _____

Evening telephone: _____

Fax: _____

E-mail: _____

Affiliations with firms:

