



The American Society of Mechanical Engineers

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ASME San Francisco Section

# Newsletter

\*\*\*\*\* April 1994 \*\*\*\*\*

## April Dinner Meeting:

<b>Date:</b>	Tuesday, April 19	<b>Menu:</b>	Caesar Salad
<b>Time:</b>	6:00p.m. No Host Cocktails 7:00p.m. Dinner 8:00p.m. Program		Chicken Jerusalem with mushrooms and artichoke hearts Cheesecake with strawberry sauce
<b>Location:</b>	San Francisco State University Seven Hills Conference Center, Nob Hill Room Font Blvd. between Lake Merced Blvd. and Tapia Dr.	<b>Cost:</b>	\$19.00 Members \$21.00 Non-Members \$10.00 Students
		<b>RSVP:</b>	Please RSVP by Thursday, April 14 SFASME voice mail: (415)721-4478

### COGENERATION

Cogeneration, defined as "the sequential use of a primary energy source to produce two useful forms of energy", has been growing in popularity in the U.S. since the 1970's. In order to cogenerate, all that is required is a use for thermal energy and power. Mr. Henderson will provide an overview of the increasing importance of cogeneration and how it is related to his specific duties at the Bureau of Engineering.

Mr. Henderson is project engineer for the design and construction of a 2600kW cogeneration facility at the South East Water Pollution Control Plant in San Francisco. He is an alumni of U.C. Berkeley and a licensed professional engineer employed with the City and County of San Francisco Department of Public Works, Bureau of Engineering.

### MESSAGE FROM THE CHAIR

The winners of this years FARBAR Award from Berkeley are **Glen Low, Larry Kuang and Kevin O'Brian**. Congratulations! These students have been very active in ASME affairs and maintained excellent GPA's. Their contributions to mechanical engineering are just beginning. The winners from San Francisco State and California Maritime Academy will be announced next month.

The topic of our last dinner meeting was probably the most fun of the season. Most people think of Visual Reality as a high tech game. However, its ability to simulate anything from surgical techniques to interior design will insure VR's future as a common tool.

At the dinner meeting, there was also an appeal from a Mt. Diablo section Middle School instructor for classroom participation by engineers. Last month I sermonized about the need to encourage students interested in engineering. There are many ways to do it for those who are interested. As the instructor suggested, giving a talk to students, being a mentor, or attending a career night can be helpful as well as rewarding. The time you spend can range from a few hours a week to a few hours a year. There is room for all of these activities at every grade level. You can contact your local school district - or call us, and we will help you.

We are already making plans for next year. Don Moseman will be our Section Chair. He is looking for members interested in helping as well as suggest programs. If you would like to help or have anything you would like to see or hear, please give us a call on our hotline (415)721-4478 or the numbers listed on the back of the newsletter.

We still have many activities between now and summer. Two dinner meetings, the Bay Area Technical Conference, the State Action Program on defense conversion and the Young Engineer's Forum. There is something for everyone! Hope to see you there.

Bill Nott, Section Chair

### Getting to the Courthouse First Is a Real Advantage

(from "Ideas on Intellectual Property Law", Haverstock, Medlen & Carroll, Patent, Trademark & Copyright Attorneys - 220 Montgomery St., Ste 2200, San Francisco, CA 94104, (415)705-8410)

You and your competitor have been exchanging nasty letters for weeks. Your competitor insists that you are infringing her patent rights while you deny infringement. You are both spending a lot of money on the exercise, but it is going nowhere fast. Exasperated at the slow pace of the dance, you ask your lawyer if there is something that can be done to quickly bring the dispute to head. Perhaps, your lawyer says, we can file a declaratory judgment suit. Sounds impressive, you say. What is it?

In the typical patent infringement case, the patent owner sues the accused infringer. In a declaratory judgment case, however, the accused infringer sues the patent owner and asks the court to declare that there has been no infringement of the patent or that the patent is invalid.

#### Determine Your Action Plan

There are many reasons why you would want to file a "pre-emptive" declaratory judgment suit. First, it brings the dispute quickly into focus and, as a result, can remove the cloud around your business that many charges of patent infringement are designed to accomplish. It also allows you to inform your current and potential customers that you are so confident of your non-infringement position that you filed suit against the patent owner, the implication being that if the patent owner truly believed that you were infringing, she would have sued you first.

Second, you may be able to bring the suit in a state that is more convenient and less expensive for you than the state that the patent owner would have chosen. Assume that your competitor is a West Coast company, while you are located on the East Coast. If you do business on the West Coast, your competitor will almost certainly bring suit there. This is undesirable for you, because it adds significant travel and lodging costs to the litigation. A declaratory judgment suit can be brought anywhere that the patent owner is subject to the jurisdiction of the court. In general, a company is subject to jurisdiction where it does business. Thus, if your competitor does business in your state, you can sue her "in your backyard".

Third, it gives you the upper hand in the early stages of the litigation. Along with the complaint that initiates the lawsuit, you would file discovery requests which require your competitor to provide you with relevant document, answers to important questions, and admissions about the lawsuit. You should also set up depositions for the key players within your competitors employment.

This type of approach forces your competitor to take positions about her case, and gives you early access to proofs that may be important to your case. It also lets your competitor know that you are serious about the lawsuit and intent to move ahead at a brisk pace. Suppose that the day after you file your declaratory judgment suit, your competitor sues you on the West Coast for patent infringement. The two suits are identical except for the location. Your competitor will then almost certainly move to have your suit dismissed while her infringement suit will be the only one going forward. Which case has priority?

### Court Jurisdiction Based on Who Filed First

A recent case from the court of appeals, which has exclusive jurisdiction over patent cases, held that the first-filed suit gets priority. In that case, the two lawsuits were filed only one day apart. The trial court where the first-filed declaratory judgment case was pending dismissed the lawsuit in favor of the later-filed infringement suit. But the appellate court found this to be in error, and reinstated the earlier-filed suit. There are factors, however, which can sometimes lead to the later-filed suit taking priority, for example, when the majority of relevant witnesses are located in the state where the later-filed case is pending.

The rule that the court with the first filed lawsuit has jurisdiction applies uniformly only in patent cases. In other types of cases, the rule applies with less predictability. For example, the federal appeals court in Chicago has held that a declaratory judgment action for non-infringement of a trademark would give way to a later-filed suit between the same parties for trademark infringement.

In addition, a declaratory judgment suit is not always available. It can be filed only if the accused infringer acts, or is preparing to act, in a way that the patent owner asserts infringes the patent, and second if the patent owner creates a reasonable apprehension that the accused infringer will be sued. A letter from the patent owner charging infringement is enough to satisfy both elements, but other activity is not so clear.

### Bechtel Corporation's 1994 Mechanical Engineering Review Course

Class Hours: 5:15-8:15p.m.  
Dates: July 5 - October 4  
Day: Tuesday  
Cost: \$425

Discipline subjects covered are: Introduction/Mathematics, Statics, Mechanics of Materials, Dynamics & Vibration, Machine Design, Fluid Mechanics, Heat Transfer, HVAC/R, Thermo Fluid Mechanics, Power Cycles, Gas Dynamics & Combustion and Turbine & Turbine Cycles.

For registration and further information, contact Rosella V. Hizon at (415)768-3206.

### ASME Auxiliary Meeting

San Francisco Section

\* includes Santa Clara and Mt. Diablo Sections \*

Join the ASME Auxiliary for a tour of Hakone Gardens (followed by lunch at a nearby Chinese restaurant) 21000 Big Basin Way, Saratoga 10:30a.m.

For more details and reservations, please call Mrs. John E. Corr, 408-253-6564 or Mrs. Michael D. Pollock, 408-867-4089

## THE BIOMEDICAL INDUSTRY

### Meeting Challenges in Innovation, Quality, and Service

Berkeley Marina Marriott

May 14, 1994

### The 1994 Bay Area Technical Conference

National prominence with local convenience and cost-effectiveness!

- Customer Needs
- Product Development
- Engineering
- Manufacturing
- Regulatory Approval
- Marketing

#### Program

Dr. Richard Levy, Varian Assoc.  
"A New Direction for Biomedical Innovation:  
Can the Golden Age Continue?"

Dr. Robert Ritchie, UC-Berkeley  
"Heart Valve Failure and Life Prediction in  
Prosthetic Heart Valves"

Randy Mazzei, Toshiba America MRI  
"Magnetic Resonance Imaging: Design  
Challenges for Mechanical Engineers"

Dr. Peter Pfaelzer, Dr. Ralf Hotchkiss, SF State  
"International Wheelchair Building:  
A Case Study in Cooperative Design"

#### Plus speakers from...

**Cardiac Devices:** Advanced Cardiovascular Sys., Cardiometrics, Novacor, Advanced Coronary Tech., Nimbus  
**Imaging Systems:** Imatron, Resonox, Kaiser Hospitals, Wang NMR  
**Rehabilitation Devices:** Veterans Administration, American Life Support, Integrated Surgical, UC-Berkeley

**And a panel discussion...** Haverstock-Medlen-Carroll, Packard Children's Hospital, Siemens Medical, and others; moderated by Fred Dorey, Bay Area Bioscience Center

**Exhibits...** Toshiba, Rasna, National Instruments, SDRC, ASME, and more

#### How to Register

Registration fees, which include continental breakfast, lunch, and coffee breaks/refreshments, are \$75 in advance, \$90 at the door, and \$30 for students. To register, mail a check in the appropriate amount made out to "SF ASME" to ASME BATC, 4 Embarcadero Center, Suite 5102, San Francisco, CA 94111. For further information, leave your name and number on the SF ASME voicemail line, (415) 721-4478.

Hosted by:



The American Society of Mechanical Engineers

### ASME San Francisco Section 1993-94 Executive Council

<b>Chair</b> Willard A. Nott (408)743-2378 (408)742-4702 FAX	<b>Programs</b> Laura Vavrunek (408)922-6833	<b>Government Relations</b> Technical Activities Dan LaRochelle (707)769-9279
<b>Vice-Chair</b> Donald W. Moseman (415)768-1234	<b>Membership Interests</b> Dennis K. Lieu (510)642-4014	<b>Newsletter Editor</b> Madeleine Moffitt (510)540-8551
<b>Treasurer and Secretary</b> Eric Broadhurst (415)397-0442	<b>Industrial Relations</b> Marco Bruzzano (510)228-1604	<b>History and Heritage</b> Eric Worrell (510) 228-1220 x2571
<b>Unemployed Members</b> Lynden Davis (800)624-9002	<b>College Relations</b> Brandon Muramatsu (510)654-5894	<b>Professional Practice and Ethics</b> Rich Myhre (510) 444-8707

### San Francisco Section Executive Council Meetings

First Thursday of the month  
at 6:15

Offices of Bevilacqua-Knight (BKI)  
501 14th Street, Suite 210

Oakland City Center Complex near 12th Street BART  
Validated parking at City Center garage

All members are welcome and encouraged to become active and help plan this year's Section activities. For more information, call our voice mail message (415)721-4478 or Bill Nott at (408)743-2378.

#### Advertising Space Available:

\$100 full page  
\$50 half page  
\$10 business card  
\$5 classified (25 word max.)  
Contact Madeleine Moffitt (510)540-8551

#### \*\*\* JOB BULLETIN \*\*\*

##### MEMBERS

Looking for a job? Contact the ASME Western Regional Office to obtain a copy of the Job Bulletin. 1-800-624-9002

##### COMPANIES

Looking for mechanical engineers? Contact the ASME Western Regional Office to place a free listing in the Job Bulletin, or to obtain information regarding advertising in *Mechanical Engineering* magazine.

#### ASME Section Hotlines...

San Francisco Section 415-721-4478	Mount Diablo Section 510-275-4580
Santa Clara Section 408-629-2592	Western Regional Office 800-624-9002

These numbers provide meeting and technical activity information.