

ABA SCIENCE & TECHNOLOGY SECTION

*—A Report of a
Bulletin Board Focus Group with Members*

Prepared By:
Robin Wedewer
Senior Associate, Tecker Consultants, LLC
and
President, The Wedewer Group, Inc.
P.O. Box 1651
Prince Frederick, MD 20678
(410) 414-5718
robinw@wedewergroup.com

October 2008

Confidential

CONFIDENTIALITY AND NONDISCLOSURE STATEMENT AND AGREEMENT

This report is the property of ABA Science & Technology Section. The report contains proprietary information of ABA Science & Technology Section and is solely for the use of volunteers and staff. This Confidentiality and Nondisclosure Statement and Agreement is for the purpose of protecting such confidential information from being made available and disclosed to unauthorized persons.

Table of Contents

| | |
|---|----|
| Methodology and Description of Participants | 3 |
| Key Findings | 6 |
| Discussion of the Findings..... | 10 |
| Expectations of ABA SciTech Membership | 10 |
| Emerging Issues and Areas for SciTech | 13 |
| Issues Facing Members in their Work | 15 |
| Image of ABA SciTech Section..... | 20 |
| Awareness and Familiarity with SciTech | 22 |
| Needed Programs and Services..... | 22 |
| Barriers to Joining and Remaining in SciTech..... | 23 |
| Other Society Memberships | 25 |
| The Future Role of SciTech..... | 26 |
| ABA and the SciTech Section..... | 27 |
| SciTech Participation in Policy Discussions | 28 |
| Access to SciTech Member Benefits | 29 |
| The Camaraderie of SciTech..... | 31 |
| Moderator Discussion Guide | 32 |
| Activity Summary | 43 |

Methodology and Description of Participants

This research was conducted through an online bulletin board focus group with ABA SciTech Section members, conducted Wednesday, September 10, through Sunday, September 14, 2008.

A bulletin board focus group is an asynchronous, threaded discussion typically involving 20 to 30 individuals over a period of days. The participants log in to the software at a URL with a user name and a password to answer questions that are posted and monitored by a moderator. New questions are typically posted each day of the group. The moderator also can post follow-up questions based on participants' responses. (The discussion guide for this group is located near the end of this report.)

The bulletin board offers a flexible and unique way to gather research that would be difficult or impossible using traditional methods, particularly with geographically dispersed or hard-to-reach individuals. Participants can log on at their own convenience during the days of the group and take as much time as they want to respond.

Participants for this bulletin board focus group were recruited by email and were directed to a URL to complete a short survey about their background and experience. In all, 48 ABA SciTech Section members completed the registration survey indicating their interest in participating in the group. Twenty-five participants were selected to ensure a good cross-section of member types. In all, 14 members participated actively throughout the focus group. Four others were somewhat less active in their participation.

A list of the participants along with their profile information is provided in Table 1.

Notes about This Report

Focus groups are primarily used for discovery, to determine the direction for further investigation or to uncover the attitudes and opinions of individuals regarding specific issues. Care must be used in the analysis, interpretation and application of solutions derived from such a study since the results should not be considered statistically representative of the groups of interest.

Throughout this report, participants' comments have been included to illustrate the discussion. These quotes are indicated in italics and are identified by the participants' first names, which correspond to the participant descriptions in Table 1.

Table 1. Participants

| First Name | Practice Type | Firm/Company Size | Years in Practice | Specialty/Concentration | Years as SciTech Member | Gender/Race |
|------------|--|-------------------|-------------------|--|-------------------------|----------------------------------|
| Angela | Moving from working at a law school into private practice and consulting | -- | 1 to 3 years | Corporate Law, Intellectual Property and Elder Law | Less than one year | Female Caucasian |
| David C. | Private practice | 20 to 50 | 1 to 3 years | IP & Technology Law | 1 - 3 years | Male Caucasian |
| David B. | Information Technology Regulatory Compliance Director | 20 to 50 | 10 or more years | Information Technology | 1 - 3 years | Male Caucasian |
| Elizabeth | Upper management with oversight over all legal matters | One | 10 or more years | Internet/Technology Law | 1 - 3 years | Female Caucasian |
| Erik | Private practice | 250 or more | 10 or more years | Technology Related Transactions | 4 - 6 years | Male Caucasian |
| Etahn | Private practice | 10 to 19 | 10 or more years | Corporate Law | 1 - 3 years | Male Caucasian |
| Grace | In-house counsel | 10 to 19 | 7 to 9 years | Intellectual Property Law | 4 - 6 years | Female Asian/Pacific Islander |
| Joanne | Private practice | 250 or more | 1 to 3 years | Regulatory (Food and Drug/Biotech) | 1 - 3 years | Female Arab American |
| JoHanna | Private practice | 2 to 5 | 1 to 3 years | Corporate, Construction | Less than one year | Female Caucasian |

| First Name | Practice Type | Firm/Company Size | Years in Practice | Specialty/Concentration | Years as SciTech Member | Gender/Race |
|------------|--------------------------------------|-------------------|-------------------|---------------------------------------|-------------------------|---------------------|
| John | In-house counsel | 2 to 5 | 10 or more years | eCommerce, Data Protection, Contracts | More than 10 years | Male Caucasian |
| Leslie | Government | 51 to 99 | 10 or more years | Health care and grants law | 4 - 6 years | Female Caucasian |
| Manny | Private practice | 20 to 50 | 10 or more years | Intellectual Property | More than 10 years | Male Caucasian |
| Michael | Private practice | 250 or more | 4 to 6 years | Intellectual Property | Less than one year | Male Caucasian |
| Nathan | Private practice In-house counsel | 2 to 5 | 1 to 3 years | Intellectual Property | Less than one year | Male |
| Sandra | Private practice | 10 to 19 | 7 to 9 years | Intellectual Property | 7 - 9 years | Female Caucasian |
| Scott | Private practice | 51 to 99 | 1 to 3 years | Intellectual Property | 1 - 3 years | Male Caucasian |
| Steve | Private practice | 100 to 249 | 10 or more years | Intellectual Property | 4 - 6 years | Male Caucasian |
| Susan | Private practice | 250 or more | 10 or more years | Internet Law; Privacy Law; IT | 1 - 3 years | Female Caucasian |

Key Findings

- The reason participants say they joined the SciTech section are for cutting-edge information not available elsewhere, resources to help with their personal and business development as well as their satisfaction and to grow their network of contacts with other lawyers working in science and technology.
- Some of the focus group participants said they are too new to the section to be able to evaluate whether they have gotten what they expected from membership. Those that could make an evaluation agreed that they had gotten what they wanted. The participants who were most enthusiastic about the value SciTech were those who have been more highly involved in the section's activities.
- It is probably no surprise that the greatest barriers to involvement in section activities are time and money. Nevertheless, participants said that they make time for activities that provide a return on investment for their time, are easy to access and are relevant to their work.
- Many of the participants said that they have difficulty learning about opportunities for involvement in the section. One of the major reasons for this barrier is the sheer volume of information that they receive from the American Bar Association. Even information in which they might be interested is lost in the deluge or what one participant called the "signal to noise" ratio.
- Because they are time-starved and often do not receive travel or meeting reimbursement, the members in this focus group said they want smaller, less time-consuming ways that they can become involved in SciTech activities. They particularly want online or local networking opportunities, short-term volunteer assignments or other mechanisms that facilitate interaction among science and technology lawyers. Nevertheless, participants are sensitive to wanting to know about opportunities for participation, feeling their investment in time will yield a return on investment.
- The major issue within the science and technology law arena, according to the focus group participants, is the pace of change, which has an impact on their ability to keep up with developments. Change is also a challenge for the courts which must move swiftly, even when scientists have not reached conclusions about the evidence. And new technology itself presents a learning curve, adding to the time crisis. Other emerging issues in the field included:

- Virtual worlds
 - Internationalization of the profession and the work, without any international enforcement mechanism
 - The impact of virtualization of computers and its impact on software licenses
 - Understanding complex issues related to science that have legal implications
 - Conflicts of interest in the appointment of judges
 - Changes in evidence standards
 - Developing standards of care in technology
 - Less tolerance to let the private sector "self-regulate"
 - Climate change
 - Global inequities
 - Globalization and international comity issues
 - The opportunities and potential problems with the availability of information about our genetic composition
 - How nanotechnology impacts health and the environment
- Most of the issues members said are impacting their personal practice are time, business and social issues. The major legal issue these members said they face is the changing environment for patent law. They say new rules, laws and court rulings could negatively impact their practices.
 - To deal with the issues they face in the field and in their practices, participants said they need access to information that is:
 - Quick and easy to access
 - Timely and up-to-date
 - Accurate and with appropriate context
 - High level summaries with details available
 - Prioritized
 - Global in nature

Participants used the SciTech deskbooks as an example of the type of information they find useful. They also wish to leverage the other members of the section to help deal with the ideas and issues in their work.
 - The overall image of the SciTech section among participants is of a very broad—perhaps too broad—section that deals largely in the “hard sciences” and intellectual property. Because the section’s topics are so broad, inevitably some of the section’s communications are of little importance and interest to members, while some of their information is of great importance and interest.
 - Many of the participants said they had little familiarity with SciTech’s member benefits beyond *The SciTech Lawyer* and the section’s annual meeting.
 - Focus group participants said that new program areas they would value are those that would allow them to stay connected with other members and resources that would help

them in their work. Many of the ideas leveraged the power of the Internet. Specific ideas included:

- Legal "FaceBook"
 - Check lists and forms of agreements for areas of general interest
 - Member contact list with emails and practice areas/expertise
 - Methods to share information resources categorized by topic
 - On-demand webcasts
 - Teleconferences where members can participate in discussions and which can be turned into podcasts
 - A LinkedIn group so members can view the CVs of members they are considering for a referral or consult
 - Searchable database of section articles and archive access
 - Regular regional networking functions
 - A Craigslist-type website or blog that would cater to local attorney needs while giving access to national needs as well
 - More coordination with local and national bar associations to maximize the opportunity to network while minimizing the time involved
 - More collaboration between the committees, especially where multiple committees are working on the same issues
 - Discussion groups on topics such as e-discovery, expert witnesses in patent cases or other technical cases
- Many of the focus group participants hold numerous memberships in other ABA sections and outside associations and societies, although there was no clear competitor for SciTech among those mentioned. None of the participants cited the SciTech section as his primary resource for professional resources. Among others who cited a primary resource, work colleagues were cited most frequently as a primary resource.
 - Despite the changes wrought by the Internet, participants said that they believe the SciTech section will continue to serve the traditional roles that societies typically have—education, information, networking and advocacy. They agreed, however, that priorities may change and that the mechanisms for delivery member services will likely move more online.
 - In dealing with the relationship between SciTech and other ABA sections that are increasingly taking up topics traditionally in the purview of the SciTech section, participants said that the section should serve as a leader by “framing” the issues and range of positions, although they had little in the way of specific on how to accomplish this. Others felt that more collaboration is needed on topics with other societies to ensure a balanced view. A couple of participants suggested that most of the conflict occurs on topics related to technology and that the SciTech section should refocus more on the hard sciences.



- Participants clearly see SciTech as having a significant role in policy discussions related to science and technology, although one participant said he wouldn't see this as an actual member benefit.
- Participants were divided on the wisdom of allowing broad access to the section's published materials by non-members. Although some of the participants felt that it would attract more attention to the society others said it would erode member value. Ultimately, most of the participants said there is value in allowing some access—perhaps selected papers or articles or more high-level information, leaving the detailed information accessible only to members.
- Regarding the camaraderie among SciTech members, participants said that size was less an issue than the culture of the section. Creating an environment that makes involvement opportunities well-known, removes the barriers to participation and creates a welcoming environment to newcomers is what will create a sense of camaraderie among members.

Discussion of the Findings

Expectations of ABA SciTech Membership

Participants in the focus group said they joined the ABA SciTech section because they wanted to:

- Access resources and information for:
 - personal satisfaction,
 - professional development and
 - business development;
- Access cutting-edge information and information not available through general legal publications;
- Grow contacts and relationships with other lawyers who share an interest in science and technology issues.

For the most part participants said that they have gotten what they were looking for, although several of the participants are fairly new SciTech members and thus have fairly limited experience with society benefits and services. The members who were most enthusiastic about their SciTech experience were those who have had more involvement in the section's activities—publishing, committee work and networking.

I joined the section in order to get access to the section's information and forums on privacy, data breach and identity theft which are particular interests of mine. That is also why I joined the anti-trust section of the ABA because for some strange reason it also has an active section involved in data privacy, data breach and identity theft. I would like to develop more expertise in this area for both personal satisfaction and as a business development tool. (Etahn)

I joined in order to receive news and information that might not otherwise be contained in general legal publications, and I also would like to grow contacts. I have enjoyed the publications that I have received, and do generally at least skim for noteworthy topics for further review. As I'm sure everyone can relate, it is difficult to keep up with all the incoming reading material (which is not an assessment of its value, just a reality of time constraints). I remain a member of the section because I think it is important to keep tabs on current topics of interest in the general field. (Sandra)

I wanted to have access to information and colleagues interested in technology matters. (I was also offered a free book when I signed up, although that never arrived.) Although I have received information and periodicals from the group, I'm not a patent attorney so some of the information is not relevant to me. (Susan)

To be honest, I'm not sure what I wanted to get out of the SciTech group. General knowledge, keeping abreast of the law in the SciTech areas I guess. (Scott)

I seek opportunities to interact with people who share my interests, to network with those who practice in the same areas of law, and to share information. I have definitely gotten a good return on investment from my involvement, because this encouraged me to become a patent attorney. Also, I have received a great deal of information about biotechnology and the law. The primer that our committee published on biotech and the law is an excellent resource. Also, I have referred matters to other members of our committee, for example someone having FDA experience. (Steve)

I started needing to figure out what area of law I wanted to practice in (they don't teach you that in law school). I got more than that out of the section. By the time I had graduated with the JD, I was published more than some of my school's tenured professors! Needless to say, I've gotten what I was looking for. Now, I continue to stay a member because, more so than any other section, SciTech continues to push the envelope of what is new and exciting: virtual worlds, data integrity, e-discovery, digital evidence, nanotechnology, AI, etc. (John)

I'm interested in staying up-to-date with cutting edge legal developments in IT security. I've gotten what I was looking for through the committee listserv, which is extremely active, and through the committee meetings which I'm able to attend (about twice a year). (David B.)

In my mind, contacts are just a means to improve yourself and your outlook on life and the practice of law. I love finding out how people ahead of me in their careers dealt with certain problems or overcame certain hurdles, and try to learn from them as much as possible. Again, maybe my juniority (a new word that I coined last week!) in the legal profession has something to do with that... (Joanne)

I would like to accomplish some basic networking functions. Find people I can rely on to ask questions or give answers to, refer out work, get referrals from, mentoring, career advice, help and be helped by. I would expect to interact with them electronically or by phone for the most part, and when opportunity presents itself to interact in person, such as at an ABA function, or perhaps a SciTech regional event near me. (David C.)

Throughout the focus group participants said they would like smaller, more meaningful ways to becoming involved with the SciTech section. This seems particularly true for those whose firms do not reimburse them for attending SciTech's meetings or who can't or aren't interested in writing for the section's publications. Projects such as short-term committee work, contributing to online communities or local networking are examples that participants gave of ways that they could interact and that would fit into their schedules.

Besides attending meetings, which are prohibitively expensive generally since they are not subsidized by smaller firms, and writing an article which is a bigger time commitment than I generally want to make, assuming that I found a good topic for a meeting, what are the best ways for becoming involved? Was there a

sign-up when I joined the committee that I missed? Seriously, it would be helpful if there were smaller projects for those of us who want to test the waters. (Etahn)

I must echo some of this from the government attorney point of view. I do not receive any subsidy for membership, travel or program fees. Even with government discounts, it is a stretch so I don't feel able to show up for a lot of events or programs outside my area. Also, I have thought of doing some writing but the ethical restrictions given my government position are quite intrusive and I have not felt like it was worth putting a request through the whole ethics review process just to submit an article. I would like to find smaller, less problematic ways to contribute. (Leslie)

The lower the bar to participation, the better—cannot usually travel to section meetings, but can log on to a board from time to time or contribute to a listserv. (Erik)

This year in particular, I am directing more focus/time toward marketing and business development, so I could see myself becoming more involved if there were opportunities to become acquainted with potential clients or referral sources, or if there were opportunities to participate in a manner that would result in exposure for generating/growing name recognition. (Sandra)

I would like to see more use of social networking methods to encourage communication flow among members—perhaps hosting blogs or a LinkedIn group or some other sort of forum for informal discussions. A hosted blog site would allow members to open areas of discussion and present themselves and their work and interests in a much more developed way. One or more of the blogs could be official section blogs (sections news, biotech developments, virtual world topics, etc.) and others could be member blogs (which the section hosts but does not officially endorse). I think the blogging format encourage more sense of ongoing community without flooding mailboxes. (Leslie)

I would like to see my relationship improve with the SciTech section. I am a co-editor-in-chief for a quarterly ABA journal in another section, but the field isn't as aligned with my interests and practice as science and technology are. I would prefer to expend that kind of effort along a more compatible line. What would encourage me is more opportunities. I mean opportunities in general, editing, writing, panels, discussion groups, reviews, CLE, sub-groups by interest or skill, leadership, etc. (David C.)

According to some of the participants, one of the barriers to increased involvement in the society is simply finding out about what volunteer or involvement opportunities exist to “break in.” The participants complained that with the volume of information they receive from the ABA it is difficult to know what they should pay attention to. As a result, they tune out much of what they receive because of what one participant called the “signal to noise” ratio. One participant said she didn’t feel welcomed at a SciTech event several years ago.

If there are opportunities they need to be communicated better because I haven't seen any. I get too much spam from ABA so the signal-to-noise ratio is horrible for a listserv, but a discussion board online, or a section in the magazine with "SciTech opportunities" might be a start. Breaking in is the hard part. (David C.)

I would like to get involved in some of their projects. I went to one Sci Tech event some years ago, and the group was not particularly welcoming to newcomers. Outreach from longer-term members would be good as would more information about what all the section is involved with. (Elizabeth)

I would like to be more involved. But really am unsure as to the section's needs or how they are matched with my particular skill set. I would probably appreciate knowing this information. It might prompt my greater involvement. (Grace)

Emerging Issues and Areas for SciTech

The single biggest issue in the field, according to the focus group participants, is quite simply the pace of change. But for attorneys working in science and technology the rapid pace of change is an issue with many legs.

Although they are working with the issues from a high level and generally don't have to know all the details of the science or technology, keeping up with changes and understanding their implications is a time consuming task that requires research and study.

The speed of change is similarly a challenge for the courts that must move swiftly in response to a rapidly changing environment. Compounding the problem is that in many cases, science has not yet reached conclusions that are necessary for developing laws in new areas—such as the impact of different activities on climate change.

And for everyone, the learning curve in dealing with changing technology adds to the burden of work.

I see the technology itself being the greatest challenge as it keeps changing. The learning curve for technology is getting steeper, faster. This leads to collisions as people solve problems with competing solutions or try and legislate something that is gone an instant later. I also see the virtual world as a destabilizer of many settled principles, like exactly where a crime or defamation or incident may have occurred. I see the previous anonymity as fueling problems that people might not realize have consequences now that it is diminished. (David C.)

The rapid advancements in technology—whether they be nanotechnology or virtual worlds where attorneys are soliciting real-life clients—are far surpassing the legal and policy community's ability to respond to them. On Monday, FDA had a meeting where the discussion was about nanotech food ingredients not being "generally recognized as safe." And yet those ingredients are already in our food and supplements! How do you get behemoths of industry to go backwards in their R&D? It's not possible... (Joanne)

Does Congress, or anyone else for that matter, actually understand the legal issues and consequences? With virtual law, the law has to race to keep up. With climate change, it's debatable based on who you ask. We can all agree that things are different than years ago. With biohazards, are there really more of them or are we better at detecting them? With nanotechnology, is size enough of a dividing line to offer patent protection? So many issues, so little time... (Nathan)

I would also ask whether the Supreme Court or even the federal circuit know enough about the technical side of things to understand the legal issues, especially in patent law. For example, what is "patentable subject matter?" That can be a very difficult question to answer if you are not technically minded. Also, when the patent laws were written, Congress had no clue of where technology would take us. As just one example, the line between virtual and real worlds is becoming very fuzzy. When the patent laws were last substantively updated, Congress had no idea what a virtual world even was. Nobody did. I would venture to say that even now most of Congress has no idea what a virtual world really is. And this is just one example... (Scott)

Traditionally, the field of law has not been early adopters of technology. As technology moves forward lawyers have been forced to accept changes in technology either in the way they do business or approach new legal issues. I believe the law will always be behind technology. As far as Congress and the courts, I think that they are even farther removed. It is rare that a lawyer with a science background is elected to senate or appointed to the bench and when it does happen it is only one voice in a crowd. (Michael)

Education is critical. Sometimes when the courts look at issues in cyberspace and virtual worlds, they forget that many of the issues relating to these areas are the same that have been dealt with successfully in the brick and mortar world. Also, the law has to be more flexible in dealing with these issues—the courts may be able quickly enough to respond, but by the time legislation is enacted, the train has left the station. Legislation on technical issues is often rendered ineffective since it is attempting to address an immediate (or immediately passed) situation without foresight as to what will be coming around the corner from a technological perspective. For example, Can-Spam was irrelevant almost as soon as it was passed, and all the current anti-malware/spyware legislation similarly are too inflexible in their drafting and will require constant updating to address new threats as they emerge. (Elizabeth)

Other emerging issues areas the participants identified included:

- Virtual worlds
- Internationalization of the profession and the work, without any international enforcement mechanism
- The impact of virtualization of computers and its impact on software licenses
- Understanding complex issues related to science that have legal implications

- Conflicts of interest in the appointment of judges
- Changes in evidence standards, developing standards of care in technology
- Less tolerance to let the private sector "self-regulate"
- Climate change
- Global inequities
- Globalization and international comity issues
- The opportunities and potential problems with the availability of information about our genetic composition
- How nanotechnology impacts health and the environment

It used to be that the boundary to entry in the international sphere was significantly high. In an industrial economy, making and shipping goods required a significant capital investment. Now in the information age the barrier to entry is a \$2000 computer. Further, there is a strong need to look at the cross jurisdictional practice issues and the UPL rules. (John)

I think of things such as the impact of virtual worlds as more of the proverbial "tempest in a teapot." The law adapts pretty well, albeit slowly, to such challenges. I do agree that globalization and international comity issues will continue to be important. (Erik)

The question, which still seems unanswered with nanotechnology, is to the extent nanotechnologies impact health or the environment. These questions need to be somehow addressed by scientists and regulators. Virtual worlds is more interesting because of the questions that have already arisen about who owns things created in the virtual world. (Etahn)

To me genetics is one of the key emerging areas in our world. The mapping of the human genome provides unprecedented information about ourselves. This is an area where the potential for good and bad coexist. Our humanity must keep pace with our technology. The ability to evaluate predisposition to disease or likely response to a drug so that sickness and adverse events can be avoided is an example of the good. The risk of discrimination based on genetic information is an example of the bad. (Steve)

On a societal level, I believe two big themes are going to be at the core of scientific and technological issues: climate changes and global inequities. Solving these problems is crucial to survival; driving these problems are technological development and population growth. Technology and science are both contributors to and the best hope for solutions to these threats. I think the legal issues that will be most challenging for section members will be those that intersect with these big themes. (Leslie)

Issues Facing Members in their Work

When members were asked what specific issues they were facing within their own practice, most cited time, business and social issues rather than specific legal issues, including:

- Business development for the practice
- Maintaining efficiency and work/life balance
- The double-edged sword of reliance on technology—the efficiencies that are gained vs. the potential for disruption
- Burdensome rules that make lawyers punishable for unintentional errors
- The large volume of materials for e-discovery
- Needless back-and-forth with opposing counsel that eats time and drives up costs
- The growing number of regulations and sometimes conflicts with those regulations
- The impact of a presidential administration change on policy and enforcement

Within my practice, the biggest challenge is to continue to find ways to improve efficiency and organization, to allow for more time spent on business development and still accomplish necessary billables, and just as important, to maintain life balance and quality, all while ensuring failsafes are in place. That is, as the practice has grown, critical reliance on docketing accuracy and technological support has freed us from staying up nights, but has also made us hostages of sorts, who would be much, much less productive should our technological infrastructure somehow be shutdown, and the bounce-back would be incredibly burdensome. Given that essentially all of our filings, patent, trademark, copyright, litigation, and research are now electronically based, the potential for interruption on a significant national or global scale (or even on a personal level) can be a frightening concept. (Sandra)

Practice wise, finding the next solution to a problem before the client knows it has the problem is a challenge. I get many clients that have issues and simply lack the knowledge of a solution. They want to know what they can do before it bites them. There is also the issue of rainmaking. Many clients don't even realize they are exposed by their technology policies, whether it is e-discovery or data protection or theft of proprietary info. Getting them to realize they might need our services is a concern. (David C.)

I think that one of the biggest challenges (that e-discovery seems to have brought to the fore) is our increasing ability to document and retain nearly every aspect of our lives and our various interactions with others. Sorting through, managing and deriving meaning out of the morass of information we are creating remains a challenge that manifests itself in numerous areas of the work I have been doing. (Erik)

Issues surrounding patents was the most frequently cited legal issue that participants said they were facing within their practices. Changes in patent rules, laws enacted by Congress and Supreme Court decisions have the potential to dramatically change members' practices. Some of the participants fear that the changes could jeopardize their ability to practice patent law profitably.

What keeps me awake at night is wondering where the USPTO will take us. The proposed new rules could literally drive me from the practice. No joke. In the proposed rules, the burden would be on me in many cases to explain why every single piece of prior art that I knew about did not read on a proposed invention. To do this, I would have to charge my clients at least double what I do now. Most of them could not or would not pay for this. This would also increase prosecution history a huge amount, which could be used against me. Finally, with the standard of inequitable conduct the way it is in the courts, my chances of being found guilty of inequitable conduct for making an innocent mistake in characterizing the prior art is a very real possibility. (Scott)

Patent law is under attack from many fronts such as Congress, the USPTO, the Supreme Court, large technology companies, generic drug companies, patent trolls, and foreign governments. What made America great is a strong patent system, which has rewarded innovation and encouraged economic growth. What I find the most disturbing about this attack on the patent system is that the mature large technology companies such as Microsoft, Cisco HP, Dell, Oracle, eBay and Google have been pushing for patent reform in favor of big business and against the small inventor. Due to their overwhelming success, these companies have forgotten their origins. There are forums to discuss these issues outside of SciTech such as APLIA, IP blogs and the IP sections of the ABA. (Michael)

Some of the participants complained that there is a strong need for patent bar credentials in order to practice intellectual property law.

Personally, IP seems to worship the Patent Bar. I don't really want to write patents, but it looks like I need to get the patent bar for the "street cred" in the field. So I plan on sitting for the patent bar. This means I might be called upon to write patents, which I may have mentioned isn't something I am excited to do. (David C.)

Without having Patent Bar credentials, there is almost no way into IP law. Once you do manage to get in, it seems like you're a second class citizen. I had to claw my way in and ended up at a pretty cool nanotech company less than six months in practice. I was very very lucky, despite the fact that I spent the last decade in IT prior to and during law school. Right now, I am attending math and physics classes in order to "qualify" to sit for the darn bar exam. Mix in a family, work and a little free time, its hard to manage. For the time being though, I am excited to be learning on the job. (Nathan)

Other legal issues participants mentioned facing within their practices included:

- TV whitespace/quasi-licensed frequencies/equipment
- Behavioral targeting
- Internet marketing
- Online tracking (cookies, etc.)
- Online privacy/spyware/malware

- Bandwidth shaping, caps and net neutrality
- FCC regulation of Internet carriers
- Email delivery/spam
- Healthcare access

Here in the U.S., probably the #1 change anticipated is a new presidential administration and what that will bring. Will the FTC expand its work in privacy to regulate Internet advertising in a very granular way? What will state legislatures do with respect to electronic information? (Susan)

I definitely agree that a new administration is on the top of my list. As you might have heard, FDA's position on preemption changed drastically over the past seven years, and the Supreme Court is going to weigh in this term. The policy implications are huge, and obviously the impact on our advice to drug and device clients when it comes to state product liability suits will be impacted just as drastically. (Joanne)

An area that is growing in complexity and challenge in my field (health care law) is health care access. I am interested in how to balance access to bleeding edge pharmaceuticals, treatments, medical devices and procedures with protection of consumers from useless or dangerous novelties that are inadequately tested, and how to balance spending for universal access to primary care with providing access to very expensive treatments. (Leslie)

When asked what resources they would need in order to deal with this host of challenges, participants said they need information, citing examples such as recent federal district court decisions, Congressional action, judicial action and USPTO action. Yet at various points in the group the participants complained that they were inundated with a glut of information. They went on to qualify their information needs to say that information must be:

- Quick and easy to access
- Timely and up-to-date
- Accurate and with appropriate context
- High level summaries with details available
- Prioritized
- Global in nature

Participants view the SciTech section as uniquely positioned to provide this type of information on issues related to science and technology. As an example of useful information one participant cited the SciTech deskbooks.

I really like those deskbooks, though I don't have any of my own yet. But I know the SciTech section published a biotech one, and I am sure topics like Internet privacy are in the works (if they don't exist already). I think those types of starting-point, overview resources are critical when you're tackling a new area of the law. (Joanne)

I think the invention of good resources for people would help learn issues or at least a quick reference would be good. Sometimes issues arise and you just want a small summary of the issue. (Angela)

I think SciTech should stay nimble and willing to move into new areas as they heat up—as it has done with virtual worlds. I don't look to SciTech to be the source for in-depth research on every technological issue but rather as a starting location to find deskbook-type information on hot issues, contact with experts, and opportunities to participate in lively discussions with peers. (Leslie)

I think that folks with the SciTech background need to help lead on some of the more cutting edge issues to help avoid the law making mis-steps out of ignorance or misunderstanding of the technology underpinnings of things. (Erik)

In addition to resources such as the SciTech deskbooks, participants are particularly interested in leveraging the network of SciTech members for information.

I think that there is need for exchange of information between members (somehow), in order that beneficial methods for efficient transfer of information, for example, might be shared. I think everyone agrees that there is a huge volume of information that comes in, and that it is difficult, at best, to even prioritize it all, much less digest it. I seem to have had most benefit from receiving practice tips or the like that more speak to the "how" of addressing the information rather than the specifics of the information itself, although obviously, specifically targeted, digested summary information, addressing recent rulings is obviously greatly beneficial. (Sandra)

Access to resources for information—a brain trust, as it were, would be very helpful. A forum for discussing issues with others who also deal with them. Allies in addressing issues/making recommendations to regulatory and legislative bodies. (Elizabeth)

I think what is needed is the networking I joined the section to find. Interpersonal relationships feeding each other emerging laws, cases, trends, practice tips and business opportunities. I think if SciTech can find a way to digest data and provide it to the membership in readily accessible formats, it would become indispensable. Things like panel discussions of those with particular expertise and clients with successful solutions that can be shared. Things like a highly focused digest of federal cases and state practice tips. Things like leveraged marketing and networking (FaceBook, LinkedIn, xing, theadders, etc.) so our professional skills can leverage viral marketing. (David C.)

I read a fair number of articles and enjoy passing those around to others. SciTech might consider forming an online discussion group for members (which would increase the value of membership, certainly), where articles could be posted or links could be sent out and then folks could give their thoughts about particular article(s) in bulletin board fashion as we have done here. That would be an

excellent way to interact with others. In some ways it might even be every bit as timely but also more dynamic and helpful than a regular column or other means of communicating information that tend to be more static. (Steve)

Image of ABA SciTech Section

When participants were asked to give three words that describe the nature and character of the ABA's SciTech section, participants, quite logically, cited "science" and "technology." Several participants also expressed the opinion that the section focuses more on the "hard sciences" and intellectual property. One participant pointed to the journal's table of contents as evidence of a hard science focus. Other images were that the SciTech section is very broad, encompassing a wide landscape of issues. This was underlined by the wide variety of science areas that also were mentioned—nanotechnology, biotechnology, chemistry, patents, etc.

Awareness and Familiarity with SciTech

More participants said they were not very familiar with SciTech's benefits and services than said they were familiar with them. For the most part participants cited *The SciTech Lawyer* and the section's annual meeting as the benefits with which they are most familiar, although more junior members said they can't afford to travel attend the events.

"Somewhere in between" for me. I appreciate the publications (both the journal and the occasional books). I recently attended the annual meeting and appreciated the CLE panels. Are there other benefits? (Susan)

I am probably somewhere in between like most of the previous commentators. I'm sure there are a lot of benefits of which I'm not aware. Right now, I mostly take advantage of the publications and find them to be great reads. I guess the least important benefits to me would be the ABA Annual Meeting and other large events, because I am too junior to ever get to go to those meetings... (Joanne)

Before reviewing the ABA SciTech webpage, I couldn't think of anything other than the publications and emails about attending the annual meetings. After reviewing the page, I am more familiar with the committees, member resources and YLD offerings. The publications are the most important to me, while the meetings are the least. I cannot justify the expense of attending, as much as I would like to. (Nathan)

I am unfamiliar with any benefits except for publications and opportunities for meetings. (Sandra)

I'm moderately familiar. I've attended several committee meetings, read listservs, read the publications. I've attended the annual meeting and have participated in CLE programs. And I've used the Hertz discount! Membership has also expanded my contacts in my field and I've often been able to rely on these colleagues to help address issues that arise. (David B.)

I barely have an awareness of the benefits and service of SciTech. (Michael)

This forum has made me realize that there is more to section membership than some journals, which are difficult to get read, and reduced admission to CLE. (Etahn)

Needed Programs and Services

The focus group participants had several ideas for the types of member services and benefits they would find most valuable. Largely, they focused on mechanisms for exchanging information and fall into two categories, resources for staying connected and resources for

working, researching and problem solving.

Specific ideas programs and services participants said they would value were:

- Legal "FaceBook"
- Check lists and forms of agreements for areas of general interest
- Member contact list with emails and practice areas/expertise
- Methods to share information resources categorized by topic
- On-demand webcasts
- Teleconferences where members can participate in discussions and which can be turned into podcasts
- A LinkedIn group so members can view the CVs of members they are considering for a referral or consult
- Searchable database of section articles and archive access
- Regular regional networking functions
- A Craigslist-type website or blog that would cater to local attorney needs while giving access to national needs as well
- More coordination with local and national bar associations to maximize the opportunity to network while minimizing the time involved
- More collaboration between the committees, especially where multiple committees are working on the same issues
- Discussion groups on topics such as e-discovery, expert witnesses in patent cases or other technical cases

Another would be for people to share the information sources they regularly use to stay current on an issue (print, online, etc), perhaps categorized by topical area, so that, for example, if I wanted a better understanding of nano, I could go to the SciTech group of "vetted" resources, rather than just having to start googling and using wiki (which are not terribly helpful for zeroing in on high quality things, with a legal bend to them). (Erik)

When I was a law student the section hosted a networking event in DC and I think just invited student members from the DC-area law schools. Something along those lines would be great—the section could just set up a standing monthly networking reception (or happy hour, whatever) that is open to members and is kind of informal. (Joanne)

Barriers to Joining and Remaining in SciTech

It is probably not a surprise that the two major barriers participants cited to joining and remaining in the SciTech section were time and money. But digging deeper revealed that participants will make time for activities that are:

- Easy to access and participate in
- Relevant

- Provide a return on their investment

Time and Money. Better yet, what is the return on my investment? Sure, I could probably meet some cool folks and attend some interesting CLE's in an interesting city, but at what cost? (Nathan)

Time, but if the "return on investment" were there, the time could be, too. (Sandra)

For me, I value and read first the materials that gel down important updates that I can find relevant to something I might be working on right then, as a starting point to delving further. I don't need the details so much as an initial awareness of some case/research/new topic, then, I can get the details after. Live participation is prioritized according to parameters such as (not necessarily in order of significance) ability to learn something new, ability to make new contacts, ability to make a real difference to an issue or group, recognition impact of the involvement. (Sandra)

Many of the participants said that there are too few opportunities for participation in SciTech or that the opportunities that do exist are not well communicated to them. They particularly seemed to want online opportunities to participate—or at least opportunities that do not require that they travel to participate.

Because the SciTech area is so broad, being able to associate with others within their particular field of interest is important to making the right connections. Online networking allows them to do that without requiring travel or costing as much time as travel requires.

First and foremost, time. I've had to carve out time (because I agreed to) each day to do this 15-30 minutes—and make it up somewhere else! Other than that, I think just trying to understand where and how to participate can be daunting. (Erik)

If it is relevant then we'll make time. For me, digging through all the content that doesn't apply to me to find the wheat among the chaff makes it harder. A way to cut through that to just the bits I need, and in a format where I can consume it on my schedule (podcast on the train, webcast in the hotel room, magazine in the airport) are ideal. (It would also be nice if some were presented on a level at which I operate rather than everything being introductory or FYI.) (David C.)

Knowing what to do to become involved. It can be extremely confusing and it's certainly inconsistent. Also knowing how leadership roles in committees and section leadership roles are determined, and how to play a part in them. My opinion is that there either aren't enough or they aren't adequately communicated for my needs. (David B.)

I don't think that I receive notice of available opportunities...You get a letter when your membership is up for renewal and the publications. But I rarely go the section website to check out what's newly posted. A monthly email informing us of new opportunities might be helpful to this end. My law school alum association

does that and I have two things on my calendar for the fall that I heard about via that email newsletter. They could just as easily be SciTech things on my calendar, but without hearing about them I can't plan for them. (Joanne)

I don't really have knowledge of the types of opportunities the section has to engage members, so I guess I'll have to agree on a need for improved communication. (Sandra)

The opportunities are not right for me right now based on the other competing pressures in my life. Plain and simple. Perhaps if the opportunities were virtual, it would help. That's what makes this one nice. It is actually my first involvement in any ABA event. (Nathan)

Broader CLE opportunities would help to get people involved at first. Later, interaction on the committee level would be more appropriate—too often I feel that it's a small group of experts actively participating on the committee, and it's hard to get value unless you're willing to invest the time to become an expert yourself. Often there are areas where I'd rather spend a little bit of time learning about the subject and becoming familiar with latest developments, and I'm less interested in the nuances. There are too few of these kinds of opportunities in SciTech. (David B.)

I am not aware of all of these opportunities. Virtual opportunities would be helpful in being current, minimal expense, and minimal time requirement. Most of the members of SciTech would probably be tech savvy enough to take advantage of virtual opportunities. (Michael)

Other Society Memberships

Participants in the focus group belong to dozens of diverse associations and societies related to their work. Of all of them, only the ABA's antitrust, business, IP and litigation sections had more than one member. Four of the participants are also members of the American Chemical Society and two each are members of the Information Systems Audit and Control Association and the American Intellectual Property Law Association.

Memberships mentioned by the participants included:

- ABA Admin law section
- ABA Antitrust section (2)
- ABA Business law section (4)
- ABA Construction law section
- ABA Environment section
- ABA IP section (6)
- ABA Litigation section (2)
- Academy of Science

- AIPLA
- American Association for the Advancement of Science (AAAS)
- American Association of Intellectual Property Attorneys
- American Chemical Society (4)
- American Constitution Society
- American Health Lawyers Association
- American Intellectual Property Law Association (2)
- ASIS
- Association for Computing Machinery
- ATAC
- Copyright Society of the US
- Environmental Law Institute
- FBICAAA
- Food and Drug Law Institute
- Government Lawyers Section
- Information Systems Audit and Control Association (ISACA) (2)
- InfraGard
- Institute for Electrical and Electronics Engineers
- International Association of Privacy Professionals
- IP Owners Association
- iTechlaw
- Licensing Executives Society
- Local chambers of commerce
- National Association of Women Lawyers
- NMISTA
- Patent Bar
- State and local bar associations
- State and local technical associations
- Women Rainmakers

When asked which association or resource they relied on most, some said that their own law firm and colleagues were their best resource. A few mentioned the American Bar Association, in general. ABA SciTech was not mentioned by any of the participants as a primary resource for professional support and development.

The Future Role of SciTech

Traditionally, professional societies have provided information, opportunities for networking, and have engaged in education and advocacy. Participants in the group were asked whether they think the roles of a professional society have changed at all. If so, what does that mean for how ABA SciTech should serve its members?

The general consensus among members was that although the roles are likely the same, the means for accomplishing them and the emphasis on the various roles has likely changed. There

are new ways to accomplish networking and disseminating information. And among time-starved members, instant access to the right kind of information and resources is at a premium.

The professional society remains an important tool for us to interact, gain knowledge, etc. even though the media through which we engage in those activities have evolved. (Joanne)

I think the fundamentals remain the same but the membership has changed. For example, communication and the use of cell phones, Blackberrys, etc., are dramatically different than a couple of years ago. This is where there are opportunities for providing information and networking opportunities in new ways. But what I've seen is often the same reliance on formal meetings, etc. There have been some changes, lunch-time conference call CLE sessions come to mind, but not many. (David B.)

ABA and the SciTech Section

The ABA and many other sections are increasingly dealing with technology issues related to their areas, e.g. medical technology, privacy, so that there is an overlap of interest with the SciTech section. It is often difficult to discern the best role for SciTech when there are other groups addressing the issues.

One approach that members suggested to deal with this issue was for SciTech to stake a role as the expert on these issues. In practice, however, they had difficulty describing how this could be accomplished. One participant suggested that SciTech's role could be to frame the issue and range of positions.

I think that SciTech is uniquely situated to frame issues related to science and technology, then offer the range of positions on a particular issue. Other sections can then consider the pros and cons of various positions in formulating their own. For example, there has been much discussion about the patentability of genetic research. I think this is a good example of where SciTech can offer a good frame of reference and a range of possible outcomes to the question. (Perhaps in conjunction with members of the IP section, as well.) Some frame the question as whether or not discoveries should be patentable. Others might frame the question in terms of identifying which kinds of discoveries rise to the level of patentable subject matter and which do not. Framing the question as whether or not leads to yes/no thinking and may cause us to miss some of the shades of gray that always exist in a complex question. (Steve)

Other participants suggested that there should be more cross-section collaboration on issues, such as patent law.

As the other ABA sections view multifaceted problems through their unique legal lens, we do as well. Other times, the field of view is so wide that it encompasses other subjects entirely. Take for example the spring 2008 International Law News

Special Focus Issue covering “Intellectual Property in China.” This newsletter contains articles covering international/scientific/technical/business/IP related materials—all in one issue! One specific article, by Frederic D. Van Arnam, is entitled “A Practical Guide to REACH: The EU Chemical Classification System.” Sounds like the International section is encroaching on SciTech turf to me... or are they? Why not do the same? Or better yet, why not collaborate; act as experts to those who are covering areas that straddle multiple sections; or even offer a referral program for qualified section members to answer questions on specific issues. (Nathan)

There are many areas where it's very hard to determine who should be “driving” the discussion. I recently participated in work on digital evidence, and there were just a few trial attorneys involved. On the other hand, I've also listened in on discussions where clearly the group had little idea of the limitations or capabilities of the technologies relevant to their topic. I think in many of these areas the section divisions need to break down and one committee, maybe across the ABA, should be formed. At the very least, the sections should actively foster collaboration between the committees, even setting assignments between them and “sponsoring” joint work between these overlapping committees. There also needs to be an indication of why you would participate in one committee rather than another—the differences are not intuitive. (David B)

A couple of the participants suggested that since technology is so ubiquitous, topics related to technology should, perhaps, be left out of the section altogether.

It seems to me one of the issues facing the ABA is that computer and privacy on the Web and related issues are scattered across a large number of committees. A large chunk of the interest is in this committee but a large amount is in another committee. (Anti-trust has an active committee on privacy and data protection.) While there will always be a dual perspective between those looking at technology from the point of view of science and those whose view the issue more from the impact point of view, such as a litigator's view of e-discovery. Possible, computer related things should be moved out of Sci-Tech as a distraction. (Etahn)

Suppose we flipped the question around: Has technology become such a widespread phenomenon that, when coupled with the section's preconceived focus on hard science, the section should return to its “core competency” and focus only on science? (Susan)

SciTech Participation in Policy Discussions

Nearly all the participants said that SciTech has an important role, even responsibility, to take part in policy discussions, but that it would probably not be considered a member benefit.

Nevertheless, participants said that involvement with other groups is critical to ameliorating the impact of new science and technology. They said that in many cases, ill-informed groups are

debating issues that influence policy decisions and the SciTech's involvement could help frame the discussion and ensure more accurate and balanced information.

The section should serve as a link between legal and science/engineering, because science and technology attorneys tend to be bilingual. We may know and be able to articulate the concepts of certain scientific/engineering fields well enough to, again, frame the important issues and identify the range of positions, and reasons for and against a particular position or approach. Also, attorneys can better appreciate how the law might determine the outcome of disputes and issues that arise in scientific/engineering fields. (Steve)

I think that in our general fields, it is particularly difficult to de-link the legal and policy implications of a new technology. So it certainly is worthwhile to have members engaged in thinking about policy issues. (Joanne)

Policy discussions are good ways for issues and their positions to be debated. If these discussions do not have an end point and a deliverable then they are worthless for a section to spend time and resources on. I think that a link between science/engineering and law professionals is interesting but I am not sure how to effectively make this connection. (Michael)

Given the possible societal impact of emerging technologies, this committee is the best place for this dialogue to start. Therefore, I think it is important for the committee to provide a framework for those discussion. (Etahn)

I agree that contribution to policy is important. I also agree that the value of these activities has been proven by others. Friends of mine in the legislature are hungry to learn, to find learned contributors, and to help organizations educate the public, if appropriate. For example, I recently attended a BioFuel conference and was very surprised to realize how much bad information was publicly about, in the popular press, and was influencing policy. An effective means to communicate real data and information to policymakers on ANY science topic would be a great benefit. (Sandra)

Access to SciTech Member Benefits

Some associations and sections are making their products, such as newsletters, magazine articles and such, publicly available free of charge online as part of their public service mission. Participants were asked how they viewed the balance between making these types of resources available to the public versus what should be available only to members as a benefit of membership.

Participants were about evenly divided in their views about whether making these materials public could erode the value of the section to members. Most participants agreed that making some information available to the public—perhaps selected topics or high-level information—would raise awareness of SciTech resources and activities. This information could serve as a draw to the section's website and be an incentive for authors to contribute their work.

That is where some drew the line though. Several participants said that if all the materials were made available for free, they would be less likely to continue their membership or that other member benefits would need to be increased for them to see value in their association. Although the delivery of the section materials, either electronically or in print is a convenience, it does not outweigh the value of the materials if they were to be made freely available.

Making the more general materials publicly available might grab attention of potential members. Having the more specific and detailed information available to members might give incentive to join. But at the same time, I do not believe that having most everything by our section available to the public at no charge would reduce the value of section membership. If someone wrote an excellent piece or gave a recorded presentation, it would be nice to have it available to the public, so that potential clients might easily find a link to the item. (Steve)

The overview materials could help recruit new members while the more in-depth materials would be a great incentive to keep your membership active. But I do think that if everything was public, the section could suffer by having fewer people willing to be engaged and participate in its activities. (Joanne)

I think that having the contents of newsletters and magazine articles available without charge would not harm membership enrollment. I think the value of membership comes from the periodic receipt of these items, as well as the networking opportunities. (Susan)

Having the newsletters, magazine articles, etc. is one of the reasons I joined the section. If all of those were made completely public, the section would need to beef up other areas to encourage members to stay. When members pay a fee for their membership, they need something in return. (JoHanna)

I must admit, I do enjoy reading the print material, but what would it really hurt to give the section material away to the public? In the end, it might actually help the author of the published material attract clients and new members to the section. (Nathan)

Making these kinds of materials public makes sense. I agree with the comments that it would increase interest in the section rather than detract. I'd suggest making as many of these public as possible. One thing it would show the prospective member is how active a committee is before they join it. Right now, you almost have to sign up blindly and spend some time with a group before you can tell if they have anything of interest to you or not. This would help alleviate that issue. (David B.)

I am not sure I would join if I could receive all the materials without joining. Much of my participation in the section is sporadic and partially driven by the needs of my practice. However, if the committee is interested in having only members who were more interested in participation, then open access would be fine. However,

my guess is that the section requires the dues of us half-committed members in order to function. (Etahn)

I will have to also admit that if I could receive the materials free (and timely), I probably wouldn't maintain my membership. Additionally, I seem some value in allowing for freedom of professional interchange of ideas, such as if there was a facebook type forum, and public access could be detrimental in a sense. (Sandra)

The Camaraderie of SciTech

Participants in the focus groups saw few issues with increasing the size of the section. They said that a feeling of camaraderie has less to do with the size of the group than in the nature of the interaction among members. Even small groups can lack a sense of camaraderie if they are not welcoming to new members.

From my experience in a relatively small committee (biotechnology law) I have not seen any reduction in the ability to get to know other members. I have gotten to know some people very well just by talking with them on the telephone. One of the most important functions for SciTech is to help members identify other members around the country with the same interests and practice niches (or sweet spots). (Steve)

I'm part of one committee where I still feel that camaraderie. But I've also joined others where I feel like an outsider (and in most cases quickly dropped participation). I don't think it's just that it has grown, but that it's often inconsistent. (David B.)

The section could make sure there are regular activities, that progress on goals is being made, that new members are being involved in participating on projects and that leadership is taking an active role in making sure people have what they need in order to participate. In that way, I think the camaraderie could continue to develop. Yes, there are many more people. Getting them actively involved will help camaraderie and ignoring the problem hurts it. (David B.)



Moderator Discussion Guide

**ABA Section of Science and Technology Law
Member BBFG
Moderator Discussion Guide 2.0
August 25, 2008**

Welcome to the ABA Section of Science and Technology Law Bulletin Board Focus Group

Thank you for joining our discussion. We look forward to your participation and views on the topics we will be posting for discussion. We hope that you enjoy your online discussion experience with the other participants!

BEFORE YOU BEGIN, PLEASE READ THESE INSTRUCTIONS. THEY WILL HELP TO INTRODUCE YOU TO PARTICIPATING IN THE GROUP.

When you click "continue" below, you will be taken into the discussion area. There are three separate areas that appear on this page:

- 1) The **Whiteboard (at the top)** - Used to display images, short surveys, presentations and other visual material.
- 2) The **Topic Navigation area (on the left hand side)** - Where you will find the topics and items for discussion each day of the group. To see the questions you must click on the question number.
- 3) The **Discussion/Reply area (on the right at the bottom)** - This is the largest area of the screen. It is where you will see the questions, your responses and other participant responses to questions. This area will also be used to enter in your replies whenever you click on "REPLY TO THIS QUESTION." In short, this is where all of the group conversation takes place.

IMPORTANT: To see the question, click on the question number at the very left hand side of your screen.

Please plan to work your way through the questions sequentially. I also encourage you to respond/add to and otherwise comment on the responses posted by the other participants. This will help make the discussion lively and interesting.

You will also notice at the very bottom of the screen there is a "**Help**" link. Clicking on this link will pop open a window that will give you a more detailed explanation of the various areas located on the bulletin board screen. When you are finished participating each time you log in to the discussion group, please click on the "**Logout**" link at the bottom of your screen.



Please also note that technical support is available during regular business hours (9 am – 6 pm EST) at (888) 525-5026. You may also contact the support via email at help@itracks.com.

I hope you enjoy your bulletin board focus group experience.

Robin Wedewer
Moderator

Screening Questions:

[Note: These questions do not exclude participants from the group, but do capture information that becomes a part of the participants' profiles that observers can see when watching the group.]

1. Which of the following best describes your current practice setting? (Check all that apply.)
 - Private practice
 - In-house counsel
 - Judiciary
 - Academic
 - Retired
 - Other (Please describe.) _____

2. Including you, how many lawyers does your firm/company/organization employ at all locations?
 - One
 - 2 to 5
 - 6 to 9
 - 10 to 19
 - 20 to 50
 - 51 to 99
 - 100 to 249
 - 250 or more

3. How many years have you been in practice?
 - 1 to 3 years
 - 4 to 6 years
 - 7 to 9 years
 - 10 or more years

4. What is your field of specialty or concentration (e.g., intellectual property law, corporate law, science, engineering, Internet law, etc)?

5. How long have you been a member of the ABA's Section of Science & Technology Law?
 - Less than one year
 - 1 – 3 years
 - 4 – 6 years



- 7 – 9 years
- More than 10 years
- I'm not sure

[Note to observers about question types:

Comment – Notes from the moderator that do not require a response.

Sequential questions – Require the participant to respond to the question before move forward to other questions.

Non-sequential questions – Can be answered out of sequence.

Uninfluenced questions – Require the participant to respond before seeing other participants' responses.

Influenced questions – Allow participants to see others' responses before they must respond.]

[Whiteboard: These tips are posted at the top of the screen to provide help to participants in navigating the BBFG.]

Note: All questions are sequential.

Hints on Using This Tool

--Click on a blue underlined question number to your left to see new questions.

--Click on a question number or refresh your screen to see new posts by other participants.

--You can make your replies public or private by clicking on the "Private Message" box before posting your reply. Most people reply publicly to allow for dialogue in the group.

--You can resize the windows on your screen for easier viewing by clicking and dragging on the borders of the windows.

| Question Type | Question |
|-------------------------|---|
| Day 1 | |
| 1.0 Introduction | |
| Comment | <p>Thanks for joining us! My name is Robin Wedewer and I will be leading the discussion.</p> <p>Each of the four days of this group I will be introducing questions and encouraging our discussion. Please plan to review and respond to each question, replying to other posts as well.</p> <p>Please check the whiteboard area above for hints on how to use this bulletin board. Don't forget, if you're having technical difficulties, you can access technical support at any time by calling toll free (888) 525-5026 between 9 a.m. and 6 p.m. U.S. EST. You can also email help@itracks.com. They can best help you if you're experiencing problems with your computer or accessing information.</p> <p>(By the way, during this introductory section 1.0, there is no need for you to respond to my messages unless you wish to ask questions or offer comments. The actual discussion begins in 2.0.)</p> |
| Comment | <p>In the next couple of days I will post new questions for you to think about and respond to. From time to time, I will ADD A NEW question. You can see when I have added a new question because there will be a number under the MOD column on your left, indicating the number</p> |

| Question Type | Question |
|----------------------|---|
| | <p>of new questions. The number of new participant responses is indicated with a number under the PART column, so you know right where to go to see new posts.</p> <p>In an effort to help you develop your responses, I have grouped related questions together since your responses may address more than one question at a time.</p> <p>Before responding, please take a minute to review all the questions I'm asking in a particular question/response section. If you wish, you can respond in parts, but please try to address each of the questions in the section.</p> |
| Comment | <p>You'll notice that only your first name is used in the group. This is to protect your privacy and the privacy of other participants. Confidentiality of any information you provide is assured. You can decide for yourself how much or how little you want to reveal about yourself.</p> <p>The best discussions of this sort involve people posting all or most of their question responses so others can see them. But if you want to provide a response or ask a question that only I can see, you can check the "private message" option and the other participants will not see your reply.</p> <p>This is not a formal discussion and no one will be getting a grade! It's more important that you post your candid responses than that everything is spelled and punctuated to exacting standards. Just make yourself understood is all that we ask.</p> |
| Comment | <p>You may log into the discussion as often as you want, but we ask that you log in at least once a day, if possible.</p> <p>If you have any questions or comments about the process, this would be a good place to post them. You can send me a private message by clicking the Private Message button. You can also email me at robinw@wedewergroup.com.</p> |
| Comment | <p>I want to begin today by letting everyone get to know each other. Please click on 2.1 to start enjoying the discussion.</p> |
| 2.0 About You | |
| Influenced | <p>It's always fascinating to see the diversity of people in these groups, so our first order of business is to get to know each other. To give you an idea, I'll briefly start.</p> <p>I'm Robin Wedewer and, as you already know, I'm the moderator for this group. I am an independent marketing researcher engaged to conduct this group. I do a good deal of both qualitative and quantitative research work with associations such as the ABA SciTech</p> |

| Question Type | Question |
|------------------------------------|--|
| | <p>Section.</p> <p>I live in Southern Maryland, about an hour outside of Washington, D.C. I'm about a ten minute walk through the woods from the Chesapeake Bay. My husband is an attorney in a private firm specializing in energy. When I am not working at work, I'm gardening or writing about gardening.</p> <p>Your turn!</p> <p>Where are you from? What is your area of specialization?</p> <p>In what type of setting do you work?</p> <p>How long have you been an ABA SciTech member? In what ways are you involved in the SciTech section?</p> <p>What else do you want us to know about you? (You can be as specific about where or more general—whichever you prefer.)</p> |
| Influenced | <p>What did you want to get out of your ABA SciTech membership when you joined?</p> <p>And the second part: Have you gotten what you were looking for from ABA SciTech membership? Why or why not?</p> <p>Why do you remain a member of the section?</p> |
| Influenced | <p>Do you anticipate your interest in ABA SciTech membership changing in the future? In what way?</p> <p>What would encourage you to be more involved in ABA SciTech?</p> <p><i>Probe:</i> <i>Do you think the SciTech section will become more or less relevant to the legal profession? What about to you and your personal situation?</i></p> |
| 3.0 Everyone Has Challenges | |
| Influenced | <p>In one way or another, most ABA SciTech members are dealing with a host of macro challenges in the profession as well as social changes. I am talking about things such as virtual worlds and virtual law, climate change, biohazards and nanotechnology.</p> <p>What do you see as the emerging areas and issues that will be important to members of the SciTech section?</p> |

| Question Type | Question |
|--|--|
| Influenced | <p>In the previous question, I asked about macro issues and challenges. What about within your practice? What are the growing issues and challenges that most concern you—the things that you expect you’ll need to spend more time on, learn to deal with and that perhaps even keep you awake at night?</p> |
| Influenced | <p>As you begin to address the challenges you identified in the previous questions, what are the resources, information or tools that you’ll need to effectively address those challenges?</p> <p>In what ways, if any, will ABA SciTech need to adapt to these future changes in order to remain relevant?</p> |
| Comment | <p>Those are all the questions today. As other people add their comments, it would be a good idea for you to log back in and see what they had to say and add your comments to what they had to say. This is the way we’ll get a good “dialogue” going, making for a much more interesting discussion for everyone!</p> <p>I may also be adding my own comments and other short questions, so check back in later.</p> <p>Thank you! Robin</p> |
| Day 2 | |
| 4.0 More About ABA SCITECH Membership | |
| Comment | <p>Welcome back to our group!</p> <p>Our groups are always much more interesting if you can respond to what someone else has to say—agreeing or disagreeing. Before you respond, I have set up the pages so you can read others’ responses. Please take a few minutes to scan and reply, if appropriate.</p> <p>Today I want to spend some time exploring more about your thoughts and experiences with ABA SciTech Section.</p> |
| Influenced | <p>When you think of the nature and character of the ABA SciTech section, what are the first things that come to mind? (Try giving me three words or phrases that come to mind—other than specific section member benefits.)</p> <p><i>Probe, if necessary: I’m thinking words such as “friendly,” “helpful,” “traditional.”</i></p> |

| Question Type | Question |
|---------------|--|
| Influenced | <p>Tell us about your familiarity with ABA SciTech member benefits and services. Would you say you're very familiar or do you just have an awareness of ABA SciTech Section or is it somewhere in between?</p> <p>What programs or services currently offered by ABA SciTech are most important to you? And why?</p> <p>What are the member benefits that are least important to you? And why?</p> |
| Influenced | <p>What program or services not currently offered by ABA SciTech could be important to you? And why?</p> |
| Influenced | <p>What do you think are the most significant barriers to joining and retaining their ABA and Section membership—for you and for others?</p> <p>What do you think are the most significant barriers to actively participating in the section—for you and for others?</p> |
| Influenced | <p>What is your opinion of the types of opportunities the section has to engage members in the section? Are they the right types of activities for people like you? Are there enough opportunities?</p> <p><i>Probe:</i> <i>What about the balance between online activities to engage members and the more traditional face-to-face activities? Are there enough of each of these types of opportunities?</i></p> <p><i>Do you think you'll want more virtual ways to connect with other SciTech members in the future?</i></p> |
| Influenced | <p>To what other professional societies, associations or ABA sections do you belong?</p> <p>What do you consider your primary affiliation—the one that you rely on most for your professional support and development? Tell us why you say that.</p> |
| Comment | <p>That's all for today. As other people add their comments, it would be a good idea for you to log back in and see what they had to say and add your comments to what they had to say. This is the way we'll get a good "dialogue" going, making for a much more interesting discussion for everyone!</p> <p>I may also be adding my own comments and other short questions, so check back in later.</p> |

| Question Type | Question |
|---|---|
| | Thank you! Robin |
| Day 3 | |
| 5.0 ABA SciTech Challenges and Initiatives | |
| Comment | Welcome back! Today's discussion is about some big picture ABA SciTech challenges and initiatives. In many ways, this is the most important part of our whole discussion, even though there are fewer questions. So I hope that you'll take the time to really think about your answers. |
| Influenced | <p>Traditionally, professional societies have provided information, opportunities for networking, and have engaged in education and advocacy. Do you think the roles of a professional society have changed at all?</p> <p>If so, what does that mean for how ABA SciTech should serve its members?</p> <p><i>Probe:</i> <i>Technology has dramatically changed our ability to network and access information. What role does ABA SciTech have in providing information and facilitating networking now that there are other ways for people to get these?</i> <i>Another way of thinking about this question is to consider what can ABA SciTech provide that you cannot get from your community, employer or other professional affiliations?</i></p> |
| Influenced | <p>I am curious how you view the relationship between the ABA and the SciTech section. My understanding is that the ABA and many other sections are increasingly dealing with technology issues related to their areas, e.g. medical technology, privacy, so that there is an overlap of interest with the SciTech section.</p> <p>Aside from the obvious—that the section deals with scientific and technological issues—how do you see the section fitting into the ABA? What is the position and role of the SciTech section considering that other sections are also dealing with technology issues?</p> <p><i>Probe:</i> Would you say you more belong to the Section because of intellectual curiosity and desire to know what is coming down the pike, or if are you looking for day-to-day practical information from the Section, or some combination?</p> |
| Influenced | Some associations and sections are making their products, such as |

| Question Type | Question |
|------------------------------|---|
| | newsletters, magazine articles and such, publicly available free of charge on-line as part of their public service mission. How do you view the balance between making these types of things available versus what you get for your membership? Where is the balance? And when does your membership stop holding value? |
| Influenced | <p>How much of section resources do you believe should be devoted to contributing to policy discussions? How important a member benefit do you see these types of activities?</p> <p>Do you think the Section should serve as a link between the legal profession and the scientific/engineering community? If so, in what way could that relationship be valuable to you as a Section member?</p> |
| Influenced | <p>I wonder if some people feel that ABA SciTech Section has grown to the point where the camaraderie that was once a core part of the ABA SciTech experience has been lost?</p> <p>What are some of the ways that ABA SciTech can strengthen the ability of members to connect in ways that are meaningful?</p> |
| Comment | <p>That's it for today! Thanks for your thoughtful responses. I have reserved most of tomorrow to continue discussion of the questions already posted. Please plan to join us to finish up completing the ideas we've been discussing.</p> <p>Until tomorrow!</p> <p>Robin</p> |
| Day 4 | |
| 8.0 Follow-Up | |
| Comment | Welcome back to our final day of discussion. Thank you for all the participation and ideas you have contributed. I hope you have found the discussion interesting and useful. |
| | [other questions, as needed by posts] |
| Comment | <p>For the rest of your time with us today, I would like you to spend a few minutes reviewing the new posts that other people have made. There have been a lot of ideas suggested. Please comment, agree, disagree or add to the discussion, as you wish. Please be especially sure to provide any additional suggestions that you may have.</p> <p>Also, before you sign off, please respond to the last section about your experience with our group.</p> |
| 9.0 Rating This Group | |
| Uninfluenced | How do you feel about your experience with this discussion board? |

| Question Type | Question |
|---------------|--|
| | Did you have difficulty with using the software? How much time did you spend each day reading and replying to posts? |
| Uninfluenced | How would you rate the quality of the discussion? What advice would you give for our next bulletin board focus group? |
| Comment | <p>I appreciate your participation and willingness to share your opinions. The information you have provided in this discussion has been extremely valuable. Thank you again for your time and input on behalf of ABA SciTech Section.</p> <p>Feel free to contact me at: robinw@wedewergroup.com. Robin</p> |

Activity Summary

| | |
|---|---|
| Total Number of Postings | 323 |
| Group Length (Days:Hours:Mins) | 4:23:53 |
| Group Time Running (Days:Hours:Mins) | 4:23:53 |
| Group Time Remaining (Days:Hours:Mins) | 0:00:00 |
| First Post Date | 9/10/2008 9:37 AM UNITED STATES: NEW YORK: ALBANY, BUFFALO, NEW YORK |
| Last Post Date | 9/14/2008 10:57 PM UNITED STATES: NEW YORK: ALBANY, BUFFALO, NEW YORK |
| Number of Questions in ModGuide | 32 |
| Number of ModGuide Questions Posted | 32 |
| Number of Participants | 24 |
| Number of Participants that Participated | 19 |
| Number of Observers | 7 |
| Number of Observers that Participated | 1 |
| Average Length of Post (words) | 59 |
| Total Participant Posts | 281 |
| Total Observer Posts | 1 |
| Total Moderator & Project Manager Posts | 41 |
| Total Tech Support Posts | 0 |