

Guidelines
Austin IPLA Amicus Committee

Policies and Procedures

1. Conflict policies are addressed in a separate document.
2. The Committee shall be made of at least five (5) active members of the Austin IPLA who are selected at the discretion of the Board of Directors. The Chair of the Amicus Committee shall also be selected at the discretion of the Board of Directors. The Committee shall have no more than two members from a single firm.
3. The Amicus Committee shall meet, either in person or by conference call, at least every two months, and more frequently if necessary as determined by the Chair. Members of the Amicus Committee shall be responsible for reviewing pending intellectual property litigation, and presenting information regarding that litigation to the Committee for possible amicus briefing.
4. When the Amicus Committee determines, by a majority vote of its members, that a significant policy issue of likely interest to the Austin IPLA membership is presented, or is likely to be presented, for appellate review, the Committee shall bring the matter to the attention of the Board and recommend a position to be taken by the Austin IPLA in amicus briefing. Whether the policy issue is likely to be fully addressed by the parties shall be a primary consideration in developing a recommendation.
5. Upon receiving a recommendation from the Amicus Committee, the Board will independently consider the significance of policy issues raised, the likelihood that such policy issues will be fully addressed by the parties, and collective interests of the Austin IPLA membership. The Board shall decide by majority vote whether the recommendation from the Amicus Committee will be pursued. Likelihood that a position taken in briefing will result in a substantial split amongst the active Austin IPLA membership shall be a primary consideration of the Board in determining whether or not to pursue a recommendation from the Amicus Committee.
6. The Chair will be responsible for assigning brief writing duties after a case has been approved for amicus briefing. The Chair and the Board of Directors will review the amicus brief prior to filing. Authority to dictate the final content of the amicus brief and responsibility therefore, rests with the Board. The Board will not authorize filing of an amicus brief if, after consideration, it determines that a position taken creates a substantial likelihood of a significant split among the active membership of the Austin IPLA.
7. The Austin IPLA will be responsible for any expenses associated with printing and filing amicus briefs. Committee members shall bear the costs of researching and drafting the briefs.
8. The Chair shall be responsible for maintaining the Austin IPLA Amicus Committee's position as an amicus on the Federal Circuit's amicus list, and on any other court's amicus list as the Board deems appropriate.

**Austin Intellectual Property Law Association (Austin IPLA)
Amicus Participation Conflict Guidelines and Amicus Brief Footnote**

1. The principal focus should be on maintaining the credibility of the Austin IPLA to the courts.

2. Members of the Austin IPLA Amicus Committee (the “Committee”) or the Board of Directors (the “Board”) should recuse themselves, i.e., not participate in the discussion or vote on any matter, if they represent, or are aware that any member of their firm or client organization represents, any party to the matter under consideration, either in that matter or in any other matter. Any member having such a representation shall not be present or participate during both discussion and voting on such matters. All members of the Committee and the Board should undertake reasonable inquiry to determine in advance of each meeting whether such a relationship exists with respect to any matter expected to be discussed at the meeting.

3. Members of the Committee or the Board shall only be precluded from discussing or voting on any matter for the reasons stated in Paragraph 2. For example, if a member’s firm or client organization has no conflicts related to representation but the member’s firm or client organization for business or other reasons would rather not be associated with the matter, the member shall still be allowed to fully participate in discussing and voting on the matter as well as participating in drafting and reviewing the amicus brief except that the member or the member’s firm shall not be listed on the brief.

4. If a member later learns that such a relationship existed with respect to any party to a matter that they discussed or voted on, that member shall promptly so advise the Amicus Chair or President who shall decide whether or not a re-vote is necessary.

5. If any facts are known to a Committee or Board member that might, in the professional judgment of that member, create a conflict of interest, an appearance of a conflict of interest, or in any other way adversely affect the credibility of the Austin IPLA, that member shall disclose those facts to the members to the extent permitted with that member’s professional responsibility. The Committee or Board, as the case may be, then shall decide by majority vote whether or not the member shall be recused. The member should not be present during the vote on recusal.

6. If a member believes that another member may have an undisclosed representation which should be disclosed, he or she shall so inform the President or Amicus Chair, who shall inquire of said other member if it appears appropriate.

The Board recommends that all briefs state in a footnote:

“After reasonable investigation, the Austin IPLA believes that (a) no member of its Amicus Committee or its Board who voted for the Austin IPLA to prepare this brief, and no attorney in the law firm or corporation of such a board or committee member, represents a party to this litigation,

(b) no Counsel or other representative of any party to this litigation participated in the authorship of this brief, and (c) no one other than the Austin IPLA, or its members who authored this brief and their law firms or employers, made a monetary contribution to the preparation or submission of this brief. Some Committee members or attorneys in their respective law firms or corporations may represent entities which have an interest in other matters which may be affected by the outcome of this litigation.”