

# Informers

Informing, planning and taking action



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## Fall Institute Meeting: Be a Part of It in New York, New York!

USCTI's Fall 2011 meeting takes place November 19-21, 2011 in the city that never sleeps – New York, New York. There's no better place to discuss the future of our industry and your part in it. New York City is not just a destination, it's an experience - fabulous entertainment and sightseeing, world-class dining, and incredible shopping.

The luxurious Helmsley Park Lane Hotel is the host location for this important meeting, featuring panoramic views of Central Park and the city skyline.

Don't miss the opening night reception at the NASDAQ stock exchange, with its dramatic views of Times Square. Then look forward to an informative Fall Meeting where you'll hear our distinguished panel of guest speakers. Dance the night away at a Sunday night dinner gala featuring [Gap Mangione](#) and his band.

At the USCTI Fall Meeting, you will:

- Strengthen business relationships
- Plan for the future
- Share information and best practices with your peers
- Take home tools you can use

*If you haven't been to a meeting lately, attend in November and see what you've been missing! The program includes:*

**Keynote Presentation – Survivor: Speaking from the Heart with Lessons Learned** **Guest speaker:** Alfredo Fuentes, Ret. Captain, Fire Department of New York City, Marine Division, and 9/11 hero. Hear a timely perspective on dedication, heroism, and emergency preparedness and response.

**Controlling Your Insurance Destiny, an Alternative Perspective** **Guest speaker:** Timothy McNelly, Senior Account Executive, Brown and Brown Insurance. Gain an understanding of alternatives to traditional insurance and a road map to controlling this major expense.

**Maximizing the Value of Your Retirement Plan** **Guest speaker:** Paul D'Aiutolo, founder of the D'Aiutolo Institutional Consulting Team at UBS. Learn how you can maximize your 401(k) plan to create wealth for the principals and to build a program that retains key employees, increases productivity, and incentivizes employees.

**MSC's Perspective on Trends in the Cutting Tool Industry** **Guest speaker:** Ryan Esposito, Senior Managing Director for MSC Industrial Supply Company. Hear how MSC views the cutting tool industry, including trends and issues facing the industry.

The 2011 Fall Meeting will be one of the most productive ever. Don't miss out. Reservation deadline is October 17, 2011.

## Schedule of Events The Helmsley Park Lane Hotel New York, NY

### SATURDAY, NOVEMBER 19, 2011

7:30 a.m. – 8:45 a.m. Programs Committee Meeting & Breakfast Suite 503  
9:15 a.m. – 11:15 a.m. Board of Director's Meeting & Breakfast Suite 503  
6:30 p.m. – 9:00 p.m. *Welcome Reception*  
NASDAQ

### SUNDAY, NOVEMBER 20, 2011

7:00 a.m. – 8:00 a.m. Institute Breakfast Ballroom West  
8:00 a.m. – 9:30 a.m. **Keynote Speaker – Captain Al Fuentes, F.D.N.Y. – 9/11 Survivor, Speaking from the Heart with Lessons Learned** Ballroom East  
9:30 a.m. – 9:45 a.m. *Break*  
9:45 a.m. – 10:45 a.m. **Guest Speaker – Tim McNelly, Brown & Brown NY, Controlling Your Insurance Destiny – An Alternative Perspective** Ballroom East  
10:45 a.m. – 11:45 a.m. **Guest Speaker – Paul D'Aiutolo, The D'Aiutolo, Institutional Consulting Team Maximizing the Value of your Retirement Plan** Reception  
6:30 p.m. – 7:30 p.m. Park Room  
7:30 p.m. – 11:30 p.m. Dinner / Dance Ballroom West

### MONDAY, NOVEMBER 21, 2011

7:30 a.m. – 8:30 a.m. Institute Breakfast Ballroom West  
8:30 a.m. – 9:30 a.m. Institute Meeting Ballroom East  
9:30 a.m. – 9:50 a.m. *Break*  
9:50 a.m. – 10:50 a.m. **Guest Speaker – Ryan Esposito, MSC MSC's Perspective on Trends in the Cutting Tool Industry** Ballroom East  
10:50 a.m. – 12:10 p.m. **Sponsor Presentations** Ballroom East  
6:00 p.m. – 8:00 p.m. *Farewell Reception*  
Mickey Mantle's  
2:00 p.m. or 8:00 p.m. Christmas Spectacular (Optional) Rockefeller Center

## In This Issue

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## USCTI President's Message



Steve Morency, M.A. Ford Mfg.

As I close out my 2 years as USCTI President, I am pleased to report that the Institute successfully weathered the deep recession of 2009, and that our industry is alive and well. Sales have been climbing steadily for the past 9 quarters, and order backlogs for most companies are strong. At the same time, we must always be on guard for unexpected events that could dramatically alter what appears to be a bright future for our industry.

Especially encouraging is our increase in membership this year. Please join me in welcoming the five companies that have joined since the spring, as shown later in this newsletter. Also, please talk with other companies in the industry that are not yet members and encourage them to take a look at USCTI. The contacts you make within the Institute can pay for your dues many times over.

We are trying some new meeting venues beginning this fall in New York City, and I hope that you will take full advantage of these great opportunities to make new friendships and renew old ones with your colleagues in the cutting tool business. These contacts can be invaluable in running a successful, profitable company. We share many of the same challenges and therefore, can learn a lot from each other.

The 2012 meetings offer a real break from our traditional locations, with Key West, Florida planned for April 28-30, and Alisal Guest Ranch and Resort in Solvang, California for October 27-29. These will be fun places to visit, with many enjoyable activities. The Planning Committee has already started working on these meetings, and will utilize the highly successful theme of "The Excellence Within" to maximize the return on your investment.

I strongly encourage you to get involved in your Institute, if you have not already done so. The article in this issue of the Informer titled "Maximize your USCTI ROI" describes the many opportunities to serve. Committees are the lifeblood of this organization - they provide you with an excellent vehicle to get your voice heard and to recommend positive changes that will increase the value of your membership in USCTI.

I consider it a great privilege to have served as your President, and I know that the organization will be in very good hands with my successor and an excellent Board of Directors to lead the way forward.



# 2013 World Cutting Tool Conference to be Held in Japan

Japan will host the next World Cutting Tool Conference in mid-May 2013. The Japan Small Cutting Tool Association (JSCTA) and the Japan Cemented Carbide Tool Manufacturers Association (JCCTMA) will jointly sponsor the conference in Kyoto, site of the ancient Aoi Festival.

Additional conference details will be announced as they become available over the coming year.



## USCTI Secure Virtual Office (SVO) OnLine, OnDemand

Launched within the last year, the online Secure Virtual Office (SVO) gives you 24/7 access to your critical USCTI files from anywhere in the world. This includes access to:

- Bulletins
- Meeting Announcements
- Meeting Minutes
- Contact Data for Members
- Calendar of Events
- and much more...

You can access the USCTI SVO at <https://secure.taisvo.com/uscti>. Just enter your email and password and you're in. If you have forgotten your password, click on [Forgot Password?](#) and your password will be instantly sent to your email address. If this is your first visit, instructions are included once you log in.

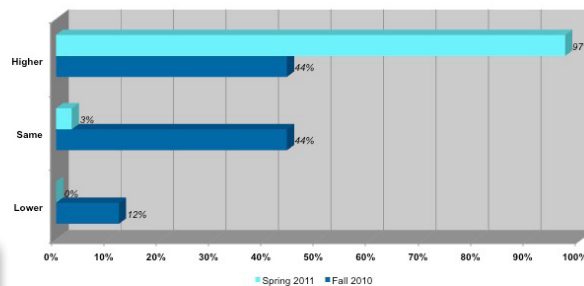
Any questions – contact the USCTI office.

## Spring 2011 USCTI Business Outlook Survey Shows Optimism

Conducted every 6 months, prior to each Institute meeting, the USCTI Business Outlook Survey provides a snapshot of members' views on cutting to sales, raw material costs and availability, export sales, industry employment, and financial issues. The results from this spring showed strong optimism for future industry sales, along with rising raw material costs. The complete survey results were distributed by email on May 11, 2011.

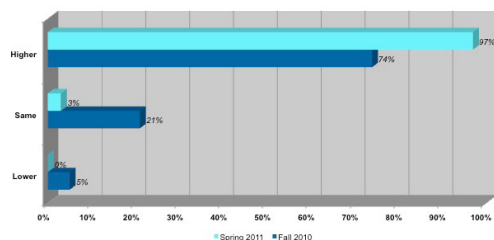
### Raw Materials and Other Input Materials

Over the past three months, the prices my company pays for Raw Materials have been:



### Industry Forecast

Forecast for Total Sales Revenues for the U.S. cutting tool industry for the next 12 months vs. the last 12 months:





# Implementing IP Best Practices Help Avoid False Patent Marking Claims

By Joseph P. Boeckman, Baker Hostetler

I have previously written in the Cutting Tool Informer about the importance of USCTI member companies to implement an intellectual property (IP) plan to help protect their trade secrets, confidential information and similar information. This article focuses on using your IP plan to help avoid liability, in this case with respect to “false patent marking” claims, and is of particular importance for companies with patent-protected products.

Since 2009, there has been a significant number of lawsuits filed against companies under the “false marking” section of the United States Patent Act (the Patent Act). These lawsuits, known as “qui tam” actions, allow any person to file a legal proceeding against an alleged false marker and split the monetary penalty with the federal government.

In general, the Patent Act provides significant advantages to patent holders who indicate that their products are patented by fixing the word “patent” (or its abbreviation) and the patent number directly on the products. In a patent infringement action, because no damages may be recovered for infringement occurring prior to the infringer receiving actual notice of the infringement, many patent mark their products to notify the public that such products are patented to improve the likelihood that higher damages may be recovered if infringement occurs.

Although marking has its advantages, it must be done properly to minimize the risk to the patent holder. The Patent Act includes a “false-marking” section which imposes a fine of not more than \$500 for “every false-marking offense.” False marking includes marking an unpatented product with the word “patent” (or similar language) or using such language in advertising in connection with an unpatented product for purposes of deceiving the public.

The steep rise in false marking suits is related to a 2009 federal circuit court decision in the case of *Forest Group, Inc. v. Bon Tool Co.*, which held that statutory penalties should be applied on a per article basis instead of on a per product/model basis, which is how a number of lower courts had been interpreting the “for every false-marking offense”

language in the statute. So, if Company ABC manufactures and sells 10 million Model X widgets a year and its patent on Model X expired two years ago, the statutory damages multiplier would be 20 million. Since any one can bring a false patent marking claim, even if they are not a competitor and regardless if they suffered any actual damages, vaguely named “patent enforcement” companies, many times consisting of attorneys/law firms, began cropping up and initiating lawsuits against companies selling products with expired patents (bow ties on display at Brooks Brothers labeled with old patent numbers if often cited as the first case). Because courts have discretion to set statutory damages (which under *Forest Group* could be up to \$500 per article), companies were understandably motivated to settle such claims at an early stage, and the false patent marking lawsuit business became very lucrative for patent enforcement companies and patent attorneys.

However, there is good news. Recently, many defendants have been successful in having their cases transferred to their home jurisdictions, which may make litigation inconvenient for many patent enforcement companies. Also, a few district courts have ruled the statute is unconstitutional (the constitutionality of the statute is on appeal). Finally, federal court decisions since the *Forest Group* decision have further applied the brakes to false patent marking cases. In one case, the federal circuit court held that the standard for proving an intent to deceive is extremely high. Even a party’s knowledge that a statement is false does not conclusively prove an intent to deceive, but rather such facts merely create a rebuttable presumption of intent to deceive the public. Further, this presumption is weak when the false markings at issue are expired patents that previously covered the marked products. If a company demonstrates that it had a “legitimate business purpose” (e.g., changing a manufacturing mold with a 20-year lifecycle could be prohibitively expensive), the presumption can be rebutted. The foregoing has resulted in a slow down with respect to the rate of new false patent marking claims.

Nevertheless, the possibility of an award of \$500 per article gives potential plaintiffs strong



financial incentives to pursue false marking lawsuits. Patent holders should be more diligent than ever in making sure that their patented products are marked accurately. Best practices in this area should include:

- A periodic audit of all marked products to confirm that markings are accurate and up to date
- Products should only be marked with those patents that include at least one claim that, under reasonable construction, covers the product
- Patent holders should consider whether any patents have expired, been held invalid or declared unenforceable
- Before marking their products, patent holders should analyze the potential risks and benefits of such markings

While false marking patent cases are no longer as much of a threat as they were as recently as 2010, the rash of attention to the issue demonstrates the importance of your company developing and implementing an IP best practices plan which should include, in addition to patents, your company’s trademarks and copyrights. For all of these IP rights, proper marking can impact the amount of the company’s recovery, and improper marking can expose a company unnecessarily to liability.

*Joseph P. Boeckman is a partner in the Business Group of Baker Hostetler and is located in the firm’s Columbus, Ohio office. He serves as outside counsel to the United States Cutting Tool Institute.*

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# Maximize Your USCTI ROI

One of the best ways to take full advantage of the value of your membership in USCTI is to ensure your active participation in the Institute's programs and activities.

Get connected!

- Make sure you plan to attend the semi-annual Institute meetings
- Consider volunteering your involvement in USCTI Committees:
  - Membership Committee
  - Programs Committee
  - Statistics Committee
  - Website Committee
- Are you represented? All members are invited to provide representation to the
  - Human Resources Committee
  - Technical Committee

The effort you invest will enhance the benefits you receive, as well as the significance and usefulness of the Institute's resources.

**Your input and ideas are always welcome! Contact USCTI President Steve Morency or the Institute office: [uscti@uscti.com](mailto:uscti@uscti.com) or [smorency@maford.com](mailto:smorency@maford.com)**

**Future Meeting Dates**

Mark your calendars now for these upcoming events!

**2011 Fall Meeting**

November 19-21  
The Helmsley Park Lane Hotel  
New York, NY

**2012 Spring Meeting**

April 28-30  
Hyatt Key West  
Key West, Florida

**2012 Fall Meeting**

October 27-29  
Alisal Guest Ranch & Resort  
Solvang, California

*These three locations offer truly unique meeting experiences as well as the opportunity to network with your industry colleagues. Plan now to attend!*



## USCTI Launches Technical Resource Center

USCTI's new Technical Resource Center (TRC) is now live on the Institute's website, [www.uscti.com](http://www.uscti.com). To get to the TRC, click on the words "Technical Center", which appear in the upper right hand corner of the home page.

The material currently posted within the TRC is the nucleus of what we expect to be a dynamic, continually evolving section of the USCTI website, with new material being added and updates being made as they become available.

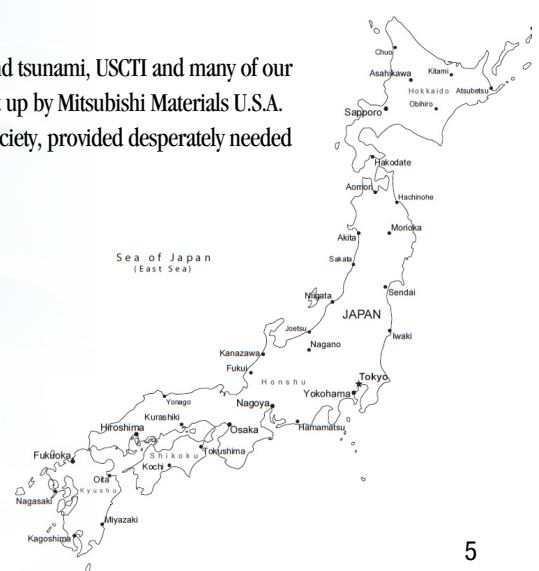
We welcome your comments regarding this first phase of the Technical Resource Center and encourage the submittal of additional content for consideration.



# Uscti Members Contribute to Japan Relief Effort

In response to this Spring's incredible destruction caused by the earthquake and tsunami, USCTI and many of our members donated to the American Red Cross, through a matching program set up by Mitsubishi Materials U.S.A. The American Red Cross, through its Japanese chapter, the Japan Red Cross Society, provided desperately needed help including food, shelter, counseling, and other assistance. Contributions sent to Mitsubishi were matched on a dollar-for-dollar basis.

In a letter of appreciation, Mr. Masaru Aramaki, President and CEO of Mitsubishi Materials U.S.A. stated; "I admire and respect your organization's demonstrated leadership and willingness to share your corporate resources with someone in need. I would like to thank you from the bottom of my heart for taking such encouraging action! I feel great knowing that we have so many friends within our industry and the business community where we can call upon when corporate social responsibilities really matter. Japan and its people will always remember your organization's generous gift and treasure the great friendship extended for years to come."



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LEADING THE FUTURE OF THE CUTTING TOOL INDUSTRY

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## Special Thanks to Our 2011 Meeting Sponsors



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