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INTELLECTUAL PROPERTY LAW

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**Banner & Witcoff remembers  
Founding member and friend,  
Harold J. Birch**

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August 11, 2003 (Washington, DC) - Harold J. Birch, a patent lawyer, died on August 8 of natural causes after a long illness. He was 83.

Birch began his law career in the early 1950's. He was a patent lawyer for Hercules Corp., and in the mid-1950's joined the Washington, DC law firm of Burns, Doane, Benedict and Irons. He was a Founding Member of the firm of Irons, Birch, Swindler & McKie in 1960, a predecessor firm to Banner & Witcoff, Ltd. He retired from the firm, then known as Banner, Birch, McKie and Beckett, in the early 1990's.

Birch had a long and distinguished record as a trial lawyer in patent law. In 1972, he successfully argued before the U.S. Supreme Court the important patent case of *Deep South Packing Co. v. Laitram Corp.*, 406 U.S. 518 (1972). In *Deep South Packing Co. v. Laitram Corp.* the Court held that a defendant who exported unpatented parts of a patented combination was not guilty of infringement. Citing *Mercoide*, the Court premised its reversal on the "unassailable" rule that "a patent on a combination is a patent on the assembled or functioning whole, not on the separate parts". (406 U.S. at 528.)

Mr. Birch was a native of Middletown, NY. Birch received his bachelor's degree in chemistry from Central College in Pella, Iowa, in 1941. He received his law degree in 1947 from the University of Iowa Law School, where he was editor of the Iowa Law Review. He graduated first in his class and received the Order of the Coif.

From 1942 to 1945, he served in the Navy as a pilot and landing-signals officer.

He was a member of the Order of the Coif fraternity, the Bar Association of Iowa, the Bar Association of the District of Columbia, the American Bar Association, and the American Intellectual Property Law Association.

Elvina Flikkema Birch, Mr. Birch's first wife and the mother of his two children, died in 1974.

He is survived by his wife of 27 years, Mary Anne Birch of Silver Spring; two children, Joslyn Oakes of Boothbay Harbor, Maine, and Craig Birch of Charlotte, N.C.; and four granddaughters.

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