Editorial

This issue of the *Queen Mary Journal of Intellectual Property* comes towards the end of what has been for London and for QMIPRI an exciting year. The London Olympics surprised and delighted and the Paralympics were one of the most successful yet, challenging assumptions about athleticism, human limitations and, more importantly, human capacities.

Challenging assumptions is critical to the health and development of any system. As conditions and priorities change, so should any social, economic or indeed legal system scrutinize its relevance and application, and if necessary adapt and rebalance in order to maximize its success. Commercial law and commercial life are indeed ‘social’ systems in that they capture the ways in which we communicate for the purposes of not only financial transactions but also for transactions in value. This issue of QMJIP grapples with such adaptability and ‘responsiveness’ in contemporary intellectual property systems. How does a commercial system interact with social and political environments in order to achieve greater efficiency, relevance and success?

Peter Drahos examines the Chinese patent system and its legal and practical capacity to grant, use and enforce patents. As increasingly one of the most critical jurisdictions for patents, China is crucial to the G-77. Drahos asks how apparent structural disadvantages perpetuated by the patent system might necessitate certain developments or responses by the weaker members of the G-77. In other words, if a system remains static, change and adaptation will inevitably be driven in the context, commercial or otherwise, in which it applies.

Such responsiveness and interaction between the commercial application of intellectual property laws and the social context is analysed in the Jamaican copyright system by Nathalie GS Corthésy. Corthésy looks at the need for mutually constitutive ‘balance’ between the commercial concerns of copyright and the social and political realm of the public domain and asks whether the term of life plus 50 years adequately accounts for incentives to creativity, and ultimately to the health and fullness of the public domain, as well as the rights of authors to the benefit of their creative output.

The analysis pieces for this issue continue this interrogation of the innate (or contrived) internal accord for the full functioning of the intellectual property system as both a commercial and social tool. Erika Ellyne reviews the opinion of the Court of Justice on the compatibility of the Draft Agreement on the Creation of the European and Community Patent Court with the European Union Founding Treaties. The tortuous journey towards a unified system has frequently faltered not only for commercial and cultural reasons (including language), but also for legal reasons, and Ellyne provides an insightful analysis of the legal considerations. Richard P Rozek also addresses this reconciliation between economic concerns and public policy, here in the case of biosimilar pharmaceutical products in the US. Rozek notes the issues underpinning such policy-making include not only legal and scientific questions, but also political and economic concerns. He notes that biosimilar products pose a

particular challenge to these interacting pressures in that the differences in biosimilar and small molecule products mitigate potential value and knowledge gained from regulatory experience.

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