Editorial

One of the crucial characteristics of the intellectual property system in terms of its use and efficacy is a basic foundation in confidence. Confidence and trust are the basis of the utility and legitimacy of the system. Confidence is crucial to obtaining our consent to the law's rules, our cooperation with its action and our reliance upon its conclusions. But confidence is of course also the mechanism of trickery. When it comes to the gathering of information on the way in which we use and interact with information, particularly in the mining of data associated with social media, the challenges of business models associated with the extraction of value in these circumstances might indeed be in achieving transparency and indeed confidence, rather than the perfection of stealth (and the attending risk of the loss of users).

This issue of transparency informs the examination of data mining in the UK's higher education institutions, undertaken by Andres Guadamuz and Diane Cabell in this issue. The authors note the need for far more research into licensing strategies for use and reuse. With greater transparency and confidence achieved through the cooperation in licensing, the reuse of data would become more legitimate not only in terms of research policy, but also in terms of contractual constraints.

Ping Xiong and Philip Griffith similarly examine a question of confidence, but in terms of the very action of the law itself. The authors review the development of trade secrets protection in China and note the significant relationship with economic growth. Confidence, in this sense, becomes an asset, a fundamental strategy for innovation and growth. For the authors, the interesting perspective upon the proprietary concept of trade secrets is not in terms of the subject matter as one of property versus one of relationships, but rather, the question of State property as distinct from private.

Confidence and trust is also inextricably tied to policy questions of access and use of both the products of intellectual property as well as the system itself. An issue of confidence and access to the system, as it were, would not be complete without further consideration of the Unified Patent Court (UPC) and the European Unitary Patent. Erika Ellyne notes the political background to the development of the UPC and the disconcerting lack of transparency regarding its conclusion. In terms of confidence and access to medicines, Sivaramjani Thambisetty provides a comprehensive and rigorous review of *Novartis v Union of India*, which provides crucial jurisprudence in this international field, where issues of confidence and trust in the rules and constraints of patent law have characterized international debate and discussion. Thambisetty argues that the Indian Supreme Court's attempt to resolve concerns over trivial secondary pharmaceutical inventions with a patent eligibility route has raised more problems perhaps than it has solved. Finally, confidence, freedom and control in an era of constant surveillance and ubiquitous promotion, whether in terms of our use of information or in our actual participation itself, are artfully brought together by Paul Torremans in his consideration of *Ashby Donald*, a significant moment in the jurisprudence on control (and copyright) of images and the freedom of the press.

Finally, this issue is a special one in that it is Marc Mimler's last issue as General Editor. Marc is stepping down from this challenge and stepping up to new ones. On behalf of everyone at QMJIP and Edward Elgar we would like to thank Marc for his enthusiasm and hard work, and wish him the best in his future projects, in which we have every confidence.

Professor Johanna Gibson and Lord Hoffmann
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