Editorial

Intellectual property is concerned invariably with change, both externally and internally.

In this issue we are privileged to publish the prestigious annual Herchel Smith Intellectual Property Lecture for 2014, 'The need for a new Copyright Act: a case study in law reform', delivered by His Hon Mr Justice Arnold, calling for a new Copyright Act.

Jennifer Davis and Alan Durant, in 'HAVE A BREAK and the changing demands of trade mark registration', provide an insightful analysis of change in trade mark law. In doing so, the authors examine change in terms of consumer behaviour and language, rather than legal reform, where such change brings about important shifts in the application and effect of registered trade marks. The authors note that change comes not only from legislative reform, but also from consumers themselves.

In 'Evaluating the legitimacy of geo-location circumvention in the context of Technical Protection Measures' Christopher Hilliard confronts developments in geo-location technologies and possible conflicts and challenges for the law. For intellectual property law, technology is an inevitable catalyst for change, and Hilliard provides a comprehensive account of the law's ability to account for those changes.

Althaf Marsoof is similarly concerned with one of the biggest challenges for intellectual property law, namely the Internet. In "'Notice and Takedown": a copyright perspective,' the author engages with the practicalities and difficulties, technical and otherwise, of regulation of the Internet. The author notes that the potential need for changes in the law is often countered by the notion of freedom required for the technical, and perhaps also social, development of the Internet. In this case, the changes in technology are themselves used as arguments against regulation, rather than for developments in the law, resulting in a curiously paradoxical situation in the form of notice and takedown procedures. The law, as it were, should always take notice of change.

This issue also launches our new 'In Focus' section, which will publish shorter, analysis articles on topical and practical issues. Launching this new section, Trevor Cook and Corinne Atton examine responses in the UK and US to groundless threats of patent infringement proceedings, and ES Nwauche analyses the South African Intellectual Property Laws Amendment Act 2013, which introduces the protection of indigenous terms and expressions into the Merchandise Marks Act, and the potential of these amendments for the effective protection of folklore and traditional cultural expressions in South Africa.

This issue's 'In Review' includes detailed case reviews from Giulia Dore, who analyses the important (and at times disconcerting) decision in *C-314/12 UPC Telekabel Wien GmbH v Constantin Film Verleih GmbH* [2014] OJ C151/2, and Miina Viitala and Julius Berg Kaasin, who provide valuable insight into the Swedish decision on music piracy in Case No. B 16995-11 by the District Court of Gothenburg.

John F Kennedy once said that change is the law of life. Well, change is most certainly the charter of intellectual property.

Professor Johanna Gibson
January 2015