Editorial

Intellectual property industries are fascinating for their almost constant and necessary state of instability, contention, and interaction. It is this instability that beats at the heart of innovative and creative industries. What is fascinating about the discipline of intellectual property law is the enormous communication and dialogue that occurs through innovation, legislation, and litigation. These complex interactions of the intellectual property system are arguably at the heart of the discussions in this issue, whether in terms of the transplantation of legal systems or meaning-making through litigation.

In ‘Biotechnology patenting caught between Union law and EPC law’, Rob J Aerts examines biotechnology patenting and the complex interaction between the laws of the European Union and the European Patent Convention, and the communication between legislative and practical procedures, leaving ‘room for interpretation’, as it were, in the potential uncertainty of the hybrid system. While the introduction of the unitary patent is widely described as a response to this uncertainty, the author identifies the continued uncertainty and inconsistency and the need for conscientious problem-solving, and intentional harmonization, within the system itself. Arguably the success of the unitary patent demands the integration of a highly differentiated legal and cultural landscape rather than merely unifying it, so to speak.

Yachi Chiang considers the interaction between the practical and the legal in ‘The impact of Technical Examination Officers on the Taiwan Intellectual Property Court’. After considering the situation of the court in the international legal landscape through a discussion of similar mechanisms in Germany, Japan, and Korea, the author then draws upon original qualitative data to analyse the function and impact of Technical Examination Officers (TEO) and the Technical Verification Report, raising fascinating questions regarding the effect of technical enclosure on litigation expertise in intellectual property disputes.

3D printing has provoked a lot of discussion as a revolutionary technical development for intellectual property industries, but arguably the real revolution is in the way producers and users alike are forced to think about the processes of production and reproduction, and the ‘quality’ of innovation. When does reproduction become more than a technical event and occupy true creative space? Indeed, arguably one of the most interesting issues raised by 3D printing is the interaction between the practical and legal enforcement of the product as distinct from the rights, and the innovation in business models through the way intellectual property rights are potentially commercialized through use rather than units. In his article, ‘Consumer 3D Printing: Is the UK copyright and design law framework fit for purpose?’ Pedro Malaquias looks at the growing relevance and accessibility of consumer 3D Printing technologies and services and undertakes a review of the UK frameworks to consider not only the legitimate interests of intellectual property owners, but also the innovation and development of the technology itself, and the business models alongside it.

The crystallization of legal interactions in the procedural is arguably fundamental to the character of injunctive relief. Huaiwen He looks at this issue in China in ‘Denial of permanent injunction for copyright infringement under Chinese laws’ and examines the shift in Chinese litigation from automatic permanent injunction to the awarding of injunctions in the context of liability and the exercise of discretion. This shift in emphasis from an automatic injunction to interpretation and litigation as communication is fascinating in

the context of intellectual property as a communicative system of interaction, and Huaiwen He's discussion raises the question of the emergence of a 'social' value to intellectual property within wider Chinese culture.

This issue's very full 'In Focus' section brings together projects from Latvia, the United Kingdom, South Africa, and Korea, all providing fascinating insight into the quality of 'communication' in law. In 'Consumer-friendly access to digital content', Ingrida Veiksa presents research from a Latvian study into the limitation of rights and remuneration to creators of digital content. Phillip Johnson takes us on a short historical mystery tour in 'The myth of Mr Burke and Mr Watt', challenging the reputation of Edmund Burke as a champion of the anti-intellectual property movement, through an examination of contemporary evidence to the contrary. One of the greatest areas of interaction and communication is of course that between competition law and intellectual property, and Nansulhun Choi and Yo Sop Choi, in the context of the pharmaceutical sector, in 'Recent developments in competition law and intellectual property relating to reverse payment agreements' take us through a comparative analysis of recent developments in the United States, the Republic of Korea, and the European Union, noting the divide between the attempt to establish criteria and certainty, and the reality of the complexity in this area. In 'The language of western homogeneity', Jade Kouletakis looks at the particular issue of legal transplantation, but does so through the perspective of language and communication. The author examines the impact on development through the question of translation of literary works, and argues that the right of translation is contrary to the interests of developing countries and linguistic diversity. Arguably, the issue of translation rights raises the issue of the loss of meaning through uniformity (not just through translation!) as distinct from the integration of meaning through the interaction of highly differentiated cultural and linguistic environments – the thread that weaves this issue together.

Finally, this issue is dedicated to one of the greatest communicators in intellectual property, Professor Sheldon W Halpern, Professor Emeritus of Law, Ohio State University, who passed away in February. Sheldon was a true enthusiast, generous friend, and delightful agitator. One of my fondest memories was his insistence upon the attendance of my dog at his seminar on publicity rights at Queen Mary. Indeed, Leo even joined Sheldon on stage for questions at the end of his presentation. Sheldon's contribution to intellectual property scholarship is profound and extensive, imaginative and engaging, and his support to his friends, colleagues, and students always went far beyond expectations. I am so grateful that I was a beneficiary of his friendship. That such a huge mind could be lost is almost incomprehensible and certainly irrational. But one of Sheldon's favourite quotes came from George Santanyana, composed for the Mark Twain Society's Greeting Book: 'One of the best fruits of reason is to perceive how irrational we are: laughter and humility can then go together'. Reason indeed.

Professor Johanna Gibson
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