

WIPO



SCP/14/INF/2

ORIGINAL: English

DATE: January 26, 2010

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

E

STANDING COMMITTEE ON THE LAW OF PATENTS

Fourteenth Session
Geneva, January 25 to 29, 2010

**EXTERNAL EXPERTS' STUDY REGARDING EXCLUSIONS,
EXCEPTIONS AND LIMITATIONS FOR THE STANDING COMMITTEE
ON THE LAW OF PATENTS (SCP)**

Document prepared by the Secretariat

1. At its thirteenth session held in March 2009, the Standing Committee on the Law of Patents (SCP) decided that the Secretariat would “commission external experts a study on exclusions, exceptions and limitations focused on, but not limited to, issues suggested by members, such as public health, education, research and experimentation and patentability of life forms, including from a public policy, socio-economic development perspective, bearing in mind the level of economic development” (document SCP/13/7, paragraph 9(c)(i)).

2. Taking into account the discussions at the thirteenth session of the SCP, the above external experts' study was commissioned to a group of academic experts as follows:

- Professor Lionel Bently, Center for Intellectual Property and Information Law, Cambridge University, United Kingdom, Coordinator;

- Professor Denis Barbosa, Catholic University of Rio de Janeiro and Rio Grande do Sul, Brazil;

- Professor Shamnad Basheer, National University of Judicial Science, India;
- Professor Richard Gold, McGill University, Canada;
- Professor Brad Sherman, University of Queensland, Australia;
- Professor Coenraad Visser, University of South Africa, South Africa.

3. Professor Bently will be the coordinator of the study, and the other experts were nominated by him. The experts' CVs are annexed to this document.

4. The terms of reference of the study reflect, word by word, the decision of the SCP at its thirteenth session (see paragraph 1 above). In particular, they include the following elements:

(a) The study shall be focused on, but not limited to, issues relating to public health, education, research and experimentation and patentability of life forms, including from a public policy, socio-economic development perspective, bearing in mind the level of economic development.

(b) The study shall include at least the following:

(i) overview of the exclusions from patentable subject matter and exceptions and limitations to the patent rights at the international level;

(ii) exclusions, exceptions and limitations relating to the legal conception of technology, such as patent protection of software-related inventions and higher life forms;

(iii) exclusions, exceptions and limitations where incentives through exclusive rights are unnecessary or incentives are provided by alternative protection mechanisms;

(iv) exclusions, exceptions and limitations intended to avoid inhibiting further research and innovation;

(v) exclusions, exceptions and limitations reflecting conflicts between patents and other social values, public policies and fundamental rights; and

(vi) an executive summary of the Study.

(c) The Study should cover, *inter alia*, the following subjects: (i) public health; (ii) education, research and experimentation; (iii) plants, animals and other life forms; (iv) computer program; and (v) biotechnology. Notwithstanding the above, the experts may agree on a different structure of, and distribution of the work relating to, the Study. In that case, the Coordinator of the study shall inform WIPO as soon as possible of the changes made.

(d) The Study shall take into account the statements made by WIPO Member States during the thirteenth session of the SCP, which are reflected in the draft Report of that session of the SCP (document SCP/13/8 Prov.).

5. Consequently, WIPO documents SCP/12/3 Rev.2, SCP/12/3 Rev.2 Add., SCP/13/3 and SCP/13/8 Prov.1 have been sent to the experts. In addition, the experts have been requested to take note of the discussions at the fourteenth session of the SCP, of any proposals from Member States expressed there or submitted until a date to be determined by the Chair, as well as of any outcome of that session.

[Annex follows]

ANNEX

PROFESSOR LIONEL BENTLY

A. PERSONAL

Name: Lionel Alexander Fiennes Bently

Nationality: British Citizen

Work Address:

Centre for Intellectual Property and Information Law,
Faculty of Laws,
University of Cambridge
Cambridge

B. EDUCATION

1973-82 Stamford School, Stamford, Lincolnshire
1983-86 Pembroke College, Cambridge B.A. (Law)

C. EMPLOYMENT

1987-88 Research Assistant, Law Commission
1988-1990 Lecturer in Law, University of Keele
1990-91, Research Fellow, King's College, London
1991- 2000 Lecturer in Law, King's College, London (teaching intellectual property, property)
1998-9 Visiting Senior Research Fellow, Murdoch University
July/August 2000, Visiting Research Fellow, Queensland University of Technology
August-October 2002, Visiting Research Fellow, University of New South Wales
September 2002- 2004 Professor of Law, King's College, London
October 2004- Herchel Smith Professor of Intellectual Property Law, University of Cambridge; Director of Centre of Intellectual Property and Information Law, University of Cambridge; Professorial Fellow, Emmanuel College, Cambridge
August-Sept 2007, Yong Shook Lin Visiting Professor, National University of Singapore
January-April 2008, BNL Visiting Professor of European Law, Columbia University

D. MISCELLANEOUS

Lectures:

I have given invited lectures at Columbia University, New York University, Chicago-Kent School of Law, U.C.L.A., Fordham Law School's Annual Conference on International Intellectual Property Law and Policy, McGill University, University of Kanazawa, Kobe University, Griffith University, the Australian National University (Canberra), the Singapore IP Academy's Global forum on Intellectual Property, Bayreuth University, Bergen University, the University of Bonn, University of Leiden, University of Amsterdam, Montpellier University, Reading University, Aberystwyth University, the University of

Oxford, London School of Economics, Queen Mary College, University of London as well as for international organisations including A.T.R.I.P. (Utrecht, Parma), A.L.A.I (Paris, Barcelona), the A.I.P.P.I. (London), I.T.M.A. (the Second Distinguished Professors lecture at the Press Club in Washington), and G.R.U.R. (Nuremberg 2009).

Prestigious Lectures:

Lecturer, Darwin Lecture Series, Darwin College, University of Cambridge (2007) (on Identity)

Lecturer, Annual Manges Lecture at Columbia University (2007)

Lecturer, Stephen Stewart Memorial Lecture, (November 2009)

Research Networks:

Member, ITER, Sophistication vs. Transparency, International Network (2002-4), organised by University of Nijmegen/University of Amsterdam; Member, Wittem Group on European Copyright Code (2004-)

Member, AHRB Copyright Network, organised by Birkbeck College, London (2003-6)

Associate, Australian Centre for Intellectual Property in Agriculture, A.N.U., Canberra/Griffith University, Brisbane

Editorial roles:

Series Editor, *Cambridge Studies in Intellectual Property* (CUP)

Editorial Board, *European Intellectual Property Review*

Editorial Board, *Script-ed*, on-line publication, University of Edinburgh

Societies:

Executive Committee, British Literary and Artistic Copyright Association (2006-) (responsible for academic programme for ALAI 2009)

Council Member, Intellectual Property Institute (2004-)

Steering Committee, International Society for the History and Theory of Intellectual Property (2008-)

Academic Advisory Roles:

Advisory Board, Institute of Brands and Innovation Law, University College, London

Advisory Board, Osgoode Hall IP

Honorary Legal Adviser, Royal Historical Society

Relations with Legal Practice

Called to the Bar (Inner Temple, November 2009)

Door Tenant, Hogarth Chambers, Lincoln's Inn

Expert Advice on Law of UK to lawyers and courts in Canada, Brazil, Germany and the United States, including *Golan* case

F. SELECTED PUBLICATIONS

Books:

The Making of Modern Intellectual Property Law (with Brad Sherman) (Cambridge: Cambridge University Press, 1999)

Intellectual Property Law (with Brad Sherman) (Oxford, Oxford University Press, 2001) (2nd ed, 2004; 3d. ed, 2008)

Between a Rock and a Hard Place: The Problems Facing Freelance Creators in the UK Media Market Place (London: Institute for Employment Rights, 2002)
Performers Rights: Options for Reform to the Interdepartmental Committee of the Australian Government (1996; with Brad Sherman)

Edited Books:

Trade Marks and Brands: An Interdisciplinary Critique (Cambridge: CUP, 2008) (ed. With Jane C. Ginsburg, Jennifer Davis)

Intellectual Property in the New Millennium: Essays in Honour of Professor W.R. Cornish (eds. L. Bently & D. Vaver) (Cambridge: CUP, 2004)

Law and the Senses: Sensational Jurisprudence (Eds. L.Bently & L.Flynn) (London: Pluto, 1996).

Intellectual Property and Ethics, Perspectives on Intellectual Property (Vol.IV) (Eds. L.Bently & S. Maniatis) (London: Sweet & Maxwell, 1998)

Selected Articles and Contributions to Edited Books:

Annual revision (since 1998) of 'United Kingdom' in M. Nimmer & P. Geller (eds.)
International Copyright Law and Policy (New York: Lexis/Nexis)

'R. v The Author: From Death Penalty to Community Service' (2008) 32 *Columbia Journal of Law and the Arts* 1-109

'Law and Identity' in E. Needham-Green (ed), Identity (Darwin Lecture series) (Cambridge: CUP) (manuscript with editor)

'Authorship of Popular Music in UK Copyright Law' (2009) *Information, Communication and Society* (special issue, 2009)

'From communication to thing: historical aspects of the conceptualisation of trade marks as property' in G. Dinwoodie & M. Janis, Trademark Law and Theory: A Handbook of Contemporary Research (Cheltenham: Edward Elgar, 2008) (also published in Japanese (trans. Nobuhide Otomo) in 19 *Intellectual Property Law and Policy Journal* 1-50 (2008)

'The Making of Modern Trade Marks Law: The Construction of the Legal Concept of Trade Mark (1860-80)' in L. Bently, Jane C. Ginsburg, Jennifer Davis (eds.) Trade Marks and Brands: An Interdisciplinary Critique (Cambridge: CUP, 2008)

'Copyright, Translations, and Relations Between Britain and India in the nineteenth and early twentieth centuries' (2007) 82(3) *Chicago-Kent Law Review* 1181-1240

Commentary on EC Directive on Legal Protection of Computer Programs in T. Dreier & B. Hugenholtz, Concise European Copyright Law (Hague: Kluwer, 2006) 211-238

'The Impact of European Geographical Indications on National Rights in Member States' (2006) 96 *Trademark Reporter* 850-905 (with Brad Sherman)

‘Copyright and the Victorian Internet: Telegraphic Property Laws in Colonial Australia’
(2004) 38 *Loyola Los Angeles Law Review* 71-176

‘Art and the Making of Modern Copyright Law’ in D.McClean & K.Schubert, Dear Images: Art, Copyright and Culture (London: ICA/Ridinghouse, 2002)

‘Great Britain and the Signing of the Berne Convention in 1886’ (with B. Sherman) (2001) 48
Journal of the Copyright Society of the USA 311-340

‘Visuality and Textuality in Nineteenth Century Intellectual Property Law’, *Intellectual Property Forum* (Journal of the Intellectual Property Society of Australia and New Zealand) (Issue 29, May 1997) 28-33

‘The UK’s Forgotten Utility Model: The Utility Designs Act 1843’ (1997) 3 *Intellectual Property Quarterly* 267-78 (with B.Sherman)

‘Requiem for Registration? Reflections on the History of the The UK Registered Design System’ in A.Firth (ed), Perspectives on Intellectual Property Vol 1: The Prehistory of Intellectual Property Law 1-48 (London: Sweet & Maxwell, 1996)

‘Copyright and the Death of the Author in Law and Literature’ (1994) 57 *Modern Law Review* 973-986

PROFESSOR BORGES BARBOSA

Practice Areas: Tax Law; Trade Law; Intellectual Property Law; Computer Law; Internet Law

Education: State University of Rio de Janeiro (LL.B., 1971; Ph.D., 2006); Gama Filho (LL.M., Business Law, 1982); Columbia Law School (LL.M., 1983)

Memberships: Brazilian Bar Association; Brazilian Institute of Lawyers; American Bar Association; Brazilian IP Association; Cyberlaw Network; Rio de Janeiro and São Paulo Bar.

Special Agencies: Former Attorney General of INPI, he retired from being Attorney for Rio de Janeiro, and has acted as a consultant for the Federal Government and international bodies. He was named representative of Brazil in diplomatic conferences for technology and intellectual property.

Languages: English, French and Spanish

Born: Rio de Janeiro, Brazil, 1948

Biography: Of Counsel, Briger and Associates (a New York Law Firm), Rio de Janeiro Branch, 1981-1982 and 1983-1985. Associate, 1982-1983 and Of Counsel, 1996—, Briger and Associates (a New York Law Firm), New York Branch. Partner Affonseca & Sabóia Monte (later Campos & Sabóia Monte), 1985-1992. Government Service: In House Attorney, Furnas Centrais Elétricas S.A., a Federal Electricity and Nuclear Power Corporation, 1977-1988. Assistant to the President of Patent and Trademark Office, 1979-1986. Attorney General of the Office, 1988. Special Assistant of the Minister of Industry and Commerce, 1986-1988. Executive Secretary of the Ministerial Commission on Engineering Services, 1986. Advisor to the National Council of Software and Automation, 1986-1988. Member: National Council of Private Insurance of the Department of Treasury, 1986-1988. Delegate and Advisor in Diplomatic and Technical Conferences held by the World Intellectual Property Organization (WIPO), United Nations Conference on Trade and Development, General Agreement on Trade and Tariffs and other international entities or events. Acted as Consultant in various occasions to the Brazilian Foreign Office, Patent and Trademark Office, the Ministry of Health, the World Health Organisation, UNCTAD, SELA, the Federal Antitrust Agency and other Federal and International organizations. Retired City Attorney of Rio de Janeiro (by public exam), 1988-2001. Assistant to the Attorney General, 1989 and 1997-2001. Director of the Center of Studies of the Attorney General's Office, 1990 and 1998-2001. Undersecretary for Special Affairs to the Mayor's Cabinet, 1991-1996. Academic Activities Lecturer: Industrial Property Law, Estacio de Sá University, Graduate Division, 1981-1983; Intellectual Property Law, State Judge Training School, 1994-1996; Intellectual Property Law, Fundação Getúlio Vargas, 1996-1998; Professor of Taxation of Intellectual Property (Tax, Patents and Theory of Competition), Catholic University of Rio de Janeiro, Graduate Division, Specialization Courses. Dean of Law School and Professor of Intellectual Property Law, Ibmecc University. State University of Rio de Janeiro, IP Graduate Courses, Lecturer on Constitutional Aspects of Intellectual Property Law. Author of over 32 Books and 200 papers. IP Professor at the Patent and Trademark Office Master and post-graduate courses of PUC/RJ, UERJ, USP, UCAM, FGV/SP e RJ, CEU/SP, ESA/SP, Fundação Armando Álvares Penteado (FAAP) and Unicuritiba. Former Attorney General of INPI, he retired from

being Attorney for Rio de Janeiro, and has acted as a consultant for the Federal Government and international bodies. He was named representative of Brazil in diplomatic conferences for technology and intellectual property.

Publications:

The World Competition Agency as a Necessary International Institution
Ibmec Law Working Paper No. 1/2003
Working Paper Series

Slouching Towards Development in International Intellectual Property
Michigan State Law Review, Vol. 2007, No. 1, 2008
Accepted Paper Series

TRIPs art. 7 and 8, FTAs and Trademarks
Working Paper Series

Counting Ten for TRIPs: Author Rights and Access to Information - A Cockroach's View of Encroachment Working Paper Series

Why Intellectual Property May Create Competition Problems
Working Paper Series

The New Brazilian Government Draft Law on Plant Varieties (Or... How a Developing Country May Want to Enhance IP Protection Because It May Actually Need It) Hide Abstract
Peter Yu, Second Summer Institute in Intellectual Property, Biotechnology and Agricultural Sciences, Drake University Law School, 2009
Accepted Paper Series

The Creation of a Competitive Environment in the Field of the Intellectual Property Rights - the South American Case
Working Paper Series

PROFESSOR SHAMNAD BASHEER

I. ACADEMIC QUALIFICATIONS

MPhil: University of Oxford (2004-2005)

BCL (distinction): University of Oxford (2002-2003)

BALLB (Hons.): National Law School of India University (NLSIU), India (South Asia's leading law school) (ranked amongst top 5 students)

II. CURRENT POSITIONS

- Ministry of HRD Chaired Professor in Intellectual Property Law, West Bengal National University of Juridical Sciences (NUJS), Kolkata, India: (November 2008-present)
- Associate, Oxford IP Research Center (OIPRC), Univ of Oxford: 2004-present
- DPhil student: University of Oxford: (2006-present)
- Adjunct Visiting Professor, NALSAR Proximate Education, NALSAR University: (Sept 2008-present).
- Research Affiliate, IP Osgoode, Canada: (2008-present)
- Founder and Chief Editor, SpicyIP (a blog dedicated to Indian IP issues)
- Advisory Panel Member, Indian Journal of Intellectual Property Law: (2008-present)
- Editorial Board Member, India Business Law Journal: (2007-present)
- Editor: PharmAsia (Portal dealing with pharmaceutical news from Asia)
- Founder member of EDIP, an online intellectual property database.

III. PAST POSITIONS (ACADEMIC/ RESEARCH)

- Frank H. Marks Visiting Associate Professor of Intellectual Property Law, George Washington University, Washington, US: (2008-2009)
- Visiting Faculty, Munich IP Law Center, (May-July 2007)
- Member, India Project, GW University: (2006-2007)
- Visiting Faculty, LSE Summer School in IP law: (May-June 2006)
- Research Assistant, Professor David Vaver (ed), *Intellectual Property Rights: Critical Concepts in the Law*, (Routledge, 2006) (5 Volumes): (2005-2006)
- Visiting Scholar, University of Illinois at Urbana Champaign, Illinois: (September 2005-January 2006)
- Visiting Faculty, National Law University, Jodhpur, Rajasthan: (2004-2005)
- Invited Research Fellow, Institute of Intellectual Property (IIP), Japan: (2003-2004)
- Tutor, Sarah Lawrence Program, Wadham College, University of Oxford (*Tutorials on Patent Law*): 2003-2004
- Visiting Faculty, Indian Law Institute, New Delhi (*Course on Cyber Laws*): 2000-2002
- Editor: Oxford Commonwealth Law Journal (2003-04)

IV. PRACTICE/CONSULTANCY

Anand and Anand – Leading Indian Intellectual Property Law Firm, Delhi

- Period : January 2000—end of 2002.
- Position : Was a Senior Associate and Head of Technology and Media Law Division.
- Practice Areas : Intellectual Property Law Litigation, Advisory and Transactional (dealing with technology transfers, licensing agreements etc).

V. SCHOLARSHIPS, PRIZES AND AWARDS

2007: Awarded the first place in a writing contest held by ATRIP for an article dealing with the Novartis-Gleevec patent case in India.

2004: Awarded the second prize in a writing contest held by the Stanford Technology Law Review for an article on biotechnology and patent law in India.

2004: Awarded the MS Lin Scholarship to attend the Inter Pacific Bar Association (IPBA) conference in Seoul.

2003: Awarded the Wellcome Trust studentship prize and the Clarendon Scholarship for the Mphil/Dphil at Oxford.

2003: Awarded a distinction on the BCL at Oxford.

2003: Awarded the IBA (International Bar Association) scholarship.

2002: Awarded the Shell Centenary-British Chevening Scholarship for the BCL at Oxford.

2001: Awarded the second best prize by the Institute of Company Secretaries of India (ICSI). for an article on “Internet and Intellectual Property Rights”.

1994: Placed second in school in the Laidlaw Memorial School (ISCE exam-equivalent to “A” levels).

VI. PROFESSIONAL QUALIFICATIONS

2005: Solicitor, UK

2002: Patent agent, registered with the Patent Office, India

1999: Advocate, Bar Council of India (called to the Bar in August 1999)

VII. PUBLICATIONS

Books:

1. *Perspectives on Patent Law in India* (Lexis Nexis, New Delhi, June 2009) (forthcoming: co-authored with Prashant Reddy).

Book Chapters:

2. *From Free Trade to Fair Trade: Cross Retaliating Against TRIPS*, "Global Regulatory Governance and the State: India and the Emergence of Global Administrative Law" Kingsbury et al (ed), (OUP, New Delhi, 2009) (forthcoming).
3. *The WIPO Development Agenda: Factoring in the "Technologically Proficient" Developing Countries* "Implementing WIPO's Development Agenda" DeBeer (ed), (Wilfred Laurier University Press/Centre for International Governance

Innovation/International Development Research Centre, Waterloo, Ontario, 2009)
(forthcoming).

4. *Trademark Issues on the Internet: Domain Name Dispute Resolution*, "Information Technology Law in India" (Indian Law Institute, New Delhi, 2004).
5. *Media Laws in India 'Investing in India'* (Asia Law and Practice, Euromoney Publications (Jersey) Limited, 2002).
6. *E-commerce in India: An E-volving E-jurisprudence 'Asian E-volution'* (Asia Law & Practice, Euromoney Publications (Jersey) Limited, 2001).

Papers (Refereed):

7. The Doctrine of Equivalents in Various Patent Regimes: Does Anybody Have it Right?, 11 Yale J.L. & Tech. 261 [co-authored with 7 others, including The Hon. Sir Nicholas Pumfrey, Justice Meirbeck and Prof Adelman].
8. *Section 3(d) of India's Patent Act: Crude, Yet Constitutional*, Volume 5, Issue 2, Script-ed, August 2008.
9. *Popping Patented Pills: Europe and a Decade's Dose of TRIPs* EIPR Volume 28 Issue 4 (May 2006). (with David Vaver).
10. *India's New Patent Regime: Aiding Access or Abetting Genericide* International Journal of Biotechnology, 8 (5) 2006.
11. *Taming of the Flu: Working Through the Tamiflu Patents in India* Journal of Intellectual Property Rights 11(2)(2006) 113-124 (with Tahir Amin)
12. India's Tryst with TRIPS: The Patents (Amendment) Act 2005 1 Indian J. L. & Tech. 15 (2005).
13. *Policy Style Reasoning at the Indian Patent Office* Issue No 3, Intellectual Property Quarterly (IPQ) (paper based on BCL thesis submitted at Univ of Oxford that was the winner of second prize in a contest by Stanford Technology Law Review (STLR)).
14. *Block Me Not: Genes as Essential Facilities?* Journal of Law, Technology and Policy (2005) Issue No 2, 55. (reprinted in Journal of Intellectual Property Rights, September 2006, 11(5) 309-390).

Other Papers:

15. The "Glivec" Patent Saga: A 3-d perspective on Indian patent policy and TRIPS Compliance, ATRIP, 2007 ([Download](#)) (Best Paper Award by ATRIP)
16. *Turning TRIPS On Its Head: Cross Retaliation at the WTO* (draft available on SSRN)
17. *Block Me Not: Genes as Essential Facilities: IIP*, International Collaboration on Intellectual Property, Tokyo, 2003.
18. *Regulatory Data Protection under Article 39.3 of TRIPS: Towards a Compensatory Liability Standard*, India Paper No 108, Intellectual Property Institute (IPI), London (Commissioned by the IPI and available at < <http://www.ip-institute.org.uk/pub.html> >)
19. *TRIPS Compatibility Review of the Patents Amendment Act 2005*, India Paper No 106, Intellectual Property Institute (IPI), London (Commissioned by the IPI and available at < <http://www.ip-institute.org.uk/pub.html> >).
20. *The Patents Amendment Act, 2005: Implications In and Outside India*, 62 IIP 43 (with Mrinalini Kochupillai).
21. *Unleashing the True Potential of Convergence: Will the Law be a Damp Squib*, 'Computer and Telecommunications Law Review' (Sweet and Maxwell, London November 2002).

22. *IP Owners Win Indian World Cup Contest* 'Managing Intellectual Property' (Sweet and Maxwell, London, August 2002).
23. *India Liberalizes Domain Name Policy* 'International Internet Law Review' (Sweet and Maxwell, London, Feb 2001).
24. *Patenting Genes and Gene Sequences: The Next El Dorado* (EDIP [Electronic Database of Intellectual Property], Oxford, January 2001)
25. *Confidentiality of Genetic Information: Need for Legislation* 5 Law & Medicine 101 (1999)
26. *Establishing Rights/Legitimate Interests in a Domain Name: Cyber squatters Get Creative* 'Computer and Telecommunications Law Review' (Sweet and Maxwell, London, January 2001).

PROFESSOR RICHARD GOLD

Research and Teaching:

Associate Professor Richard Gold teaches in the area of intellectual property and common law property at McGill University's Faculty of Law. He was the founding director of the Centre for Intellectual Property Policy.

His research centres on understanding the links between innovation, intellectual property and development. He led the International Expert Group on Biotechnology, Innovation and Intellectual Property, a transdisciplinary research team that issued a ground-breaking report on the policies and law of innovation and intellectual property. He has published widely in legal and scientific journals on this topic and is the author of *Body Parts: Property Rights and the Ownership of Human Biological Materials* (Washington: Georgetown University Press, 1996).

Translating Research into Policy:

Professor Gold leads a cutting-edge initiative to translate academic research in concrete policy for government, industry, universities and NGOs: The Innovation Partnership (TIP). TIP (www.theinnovationpartnership.org) is unique in the world: it is a non-profit corporation dedicated to helping public and private actors in developing as well as developed countries better manage their innovation systems. TIP demonstrates the power of university research to fuel real policy change. For example, Richard Gold provides ongoing advice to UNITAID, an international governmental organisation dedicated to making medicines accessible to the world's poor, on how to construct a patent pool for drugs to fight HIV/AIDS.

Prior to creating TIP, Professor Gold actively helped the policy community understand the implications of intellectual property policy. For example, he was Senior Advisor, Intellectual Property, to the Canadian Biotechnology Advisory Committee, Legal Policy Consultant to the Ontario Ministry of Health and Long-Term Care and a consultant to the Organisation for Economic Cooperation and Development on biotechnology intellectual property issues. He has prepared studies for the World Health Organization and the World Intellectual Property Organization. A former law clerk to Mr. Justice Peter Cory of the Supreme Court of Canada, Professor Gold is a Research Associate at the Health Law Institute at the University of Alberta.

Education:

S.J.D. Michigan, 1995

LL.M. Michigan, 1992

LL.B. (Hons) Toronto, 1988

B.Sc. McGill (Computer Science & Mathematics), 1984

Employment:

Associate Professor, McGill University Faculty of Law since 2001

President, The Innovation Partnership, since 2008

Director, Centre for Intellectual Property Policy, McGill University, 2003-2008

Research Associate, Health Law Institute, University of Alberta since 2000

Fellow, Einstein Institute for Science, Health & the Courts, 1999-2000

Assistant Professor, University of Western Ontario Faculty of Law, 1997-2001
Associate, Torys, Technology Practice Group, 1993-1997
Clerk to Mr. Justice Peter Cory, Supreme Court of Canada, 1990-91
Associate, Torys, 1990
Clerk, Ontario Court of Appeal, 1988-1989

Areas of Interest:

Intellectual property, biotechnology, information technology, property, commercial practices,
international trade law.

PROFESSOR BRAD SHERMAN

Qualifications: BEc (Qld), LLB (Hons) (Qld), LLM (London), PhD (Griffith)

Brad Sherman is the Director of the Australian Center for Intellectual Property in Agriculture (ACIPA) and a Professor in Law in the TC Beirne School of Law at University of Queensland, Australia. He teaches patent laws and related rights, international intellectual property law and comparative copyright law at the TC Beirne School of Law.

Prior to joining the University of Queensland, he worked at Griffith University, the University of Brunel, the London School of Economics and Cambridge University. His recent research areas include gene patents, and history of intellectual property and biological property.

He advised on the review of amendments to Digital Copyright law in Australia, and was a member of the Advisory Committee to the Australian Law Reform Commission, working on genetics, IP rights and public health. He is currently a member of the Plant Breeders Rights Advisory Committee.

He has written extensively on various themes relating to intellectual property law, and is a frequent speaker at international conferences.

Featured recent publications

B Sherman, 'Plant Intellectual Property' in (ed), *Dictionary of Intellectual Property Terms* (Cambridge University Press, 2009) (forthcoming)

B Sherman, 'Kinds, Clones and Manufactures' in Woodmansee, Biagioli, Jaszi (eds), *Con/Texts of Invention* (University of Chicago Press, Chicago 2009)

B Sherman, L Bently, S Hubicki, 'Patent Issues in Biotechnology' in (ed), *The Encyclopaedia of the Human Genome* (Macmillan Reference, London 2009)

S Hubicki, B Sherman, L Bently, 'Patent Issues in Biotechnology' in Bynum, W. F. (eds), *Encyclopedia of Life Sciences* (John Wiley & Sons, Chichester 2009)

S Hubicki, B Sherman, 'We Have Never Been Modern: The High Court's Decision in National Research Development Corporation v Commissioner of Patents' in Kenyon, A., Richardson, M, & Ricketson, S. (eds), *Landmarks in Australian Intellectual Property Law* (Cambridge University Press, Melbourne 2009) 73-96

L Bently, B Sherman, *Intellectual Property Law* (3rd edn Oxford University Press, United Kingdom 2008)

"Intellectual Property and Agricultural Biotechnology in Australia" (2007) 10 *Journal of Biolaw and Business*, Australia Edition 2007, pp 48-51 (with S. Hubicki)

"Towards an Indigenous Public Domain?" in P. Bernt Hugenholtz and Lucie Guibault (eds), *The Future of the Public Domain* (Kluwer, 2006), pp. 259-277 (with L. Wiseman)

PROFESSOR COENRAAD VISSER

Coenraad Visser is Professor of Intellectual Property Law in the University of South Africa, Pretoria, and the head of that Center for Business Law. He teaches copyright, patent, and trademark law at graduate and postgraduate levels. He is also one of the presenters of the Unisa-WIPO Specialization Program in Intellectual Property Law, a joint program of the WIPO Worldwide Academy and the Center for Business Law.

During 1996 he advised the South African government on the conclusion of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. In December 1996, he was the alternate head of the South African delegation at the Diplomatic Conference on Certain Copyright and Neighboring Rights Questions in Geneva, organized under the auspices of the World Intellectual Property Organization (WIPO). At this conference he acted as the spokesperson of the African group of countries on questions of substantive law; he also served as vice-chairperson of the conference's drafting committee.

He was a member of the Copyright subcommittees of the Standing Advisory Committee on Intellectual Property Law, an advisory body to the Department of Trade and Industry of the South African government, and is currently on the Patent Examination Board of the Department.

Recently, internationally, he was an adviser to The American Law Institute's project on Intellectual Property: Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes; a member of the external Advisory Committee to The World Bank on Empowerment, Culture, and Civic Engagement, and a member of the World Bank project teams to protect the traditional biotechnological knowledge of the Dekhuana tribes and the Shuar peoples in Latin America, and to expand the music industry in Africa, with Senegal as the pilot project country; an interviewee and collaborator in *Scenarios for the Future*, for the European Patent Office.

He has delivered papers at workshops and seminars organized by the *Actores Intérpretes Sociedad de Gestión de España* (AISGE), the European Patent Office, the Fédération Internationale des Musiciens (FIM), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Southern African Development Conference, WIPO, The World Bank, and the World Trade Organization in places such as Abidjan (Côte d'Ivoire), Accra (Ghana), Arusha (Tanzania), Casablanca (Morocco), Cotonou (Benin), Dakar (Senegal), Lilongwe (Malawi), London, Madrid (Spain), Maputo (Mozambique), Munich, Mombasa (Kenya), Nairobi (Kenya), Pretoria, Singapore, Tunis (Tunisia), and Windhoek (Namibia).

He has written extensively on many aspects of commercial and intellectual property law. Most recently, he contributed to *Poor People's Knowledge: Making Intellectual Property Work for Developing Countries* (Oxford University Press), and *Trademark Law and Theory: A Handbook of Contemporary Research* (Edward Elgar).

He is the executive editor for common-law African countries of the *International Review of Intellectual Property and Competition Law*, published by the Max Planck Institute for Intellectual Property, Competition and Tax Law, Munich; the editor-in-chief of the *Annual Survey of South African Law*, published by Juta & Co Ltd, Cape Town; editor of *Juta's Business Law*, published by Juta & Co Ltd, Cape Town; and correspondent of the *Computer Law Review International* published by Verlag Dr. Otto Schmidt, Cologne.

[End of Annex and of document]