



WORLD  
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## WIPO Executive Program Strategic Intellectual Property Management



WIPO's Worldwide Academy invites applications for places on its new Executive Program in Strategic Intellectual Property Management. The first program will take place in Geneva on September 18 and 19, 2006.

Intellectual property is a valuable corporate asset and strategic business tool. Businesses of all sizes are becoming increasingly proactive in managing their intangible assets in order to build and sustain competitive advantage. The Academy program is intended to contribute to professional development needs across a wide range of businesses.

Designed for senior business executives, this intensive two-day program will examine strategies for maximizing the business value of intellectual property. Corporate decision-makers and experts from leading business schools will share their experiences, and will present case studies and industry best practices to demonstrate the effective leveraging of intellectual property assets for competitive advantage.

For further information and registration details, please see the WIPO Worldwide Academy website at [www.wipo.int/academy/en/execed](http://www.wipo.int/academy/en/execed); or send an email to [execed.academy@wipo.int](mailto:execed.academy@wipo.int).

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#### Editorial team

John Tarpey  
Elizabeth March  
Sylvie Castonguay

#### WIPO staff contributors

Anja Von Der Ropp, Tony Taubmann: [Bioethics and Patent Law](#)  
André Heitz: [Book Review](#)  
Victor Vasquez, Eun-Joo Min, Helen Lom: [News Round Up](#)

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Sheyda Navab

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# GWIIN: CHAMPIONING WOMEN INVENTORS IN MEXICO AND BEYOND



**"A GWIIN-WIPO workshop helped me realize which IP areas to focus on." – Simi Belo trademarked and registered the innovative design of her NewHair® wigs, which show the wearer's scalp through a gap in the hairline to achieve a more natural effect.**

As the 2006 World Cup plays out in football stadiums across Germany, a rather different international competition is underway. In qualifying rounds in Ghana, Singapore, the United Kingdom and now Mexico City, women inventors of the world are demonstrating their achievements in the hope of being selected to compete for the global women inventors award in India in 2008.

The competition is just one of the many activities run by the Global Women Inventors and Innovators Network (GWIIN). Founded in 1998 by its chief executive, Bola Olabisi, this independent organization aims "to provide recognition and assistance to women inventors and innovators in the long uphill journey from idea to market actualization."

Women, Ms. Olabisi told *WIPO Magazine*, tend to be natural innovators, solving problems as they go about their daily lives at home and in the work place. Whereas in the past, many such innovations would have gone no further, enterprising women are now bringing to market ever more new products and services. But, Ms. Olabisi observes, their economic potential is still not being fully realized. Women the world over continue to encounter similar difficulties in finding practical guidance on, for example, protecting their ideas, developing prototypes, and constructing realistic business plans. "A lack of support, and in many cases lack of awareness, stifles invention and impoverishes the economic growth of many countries," she says.

## Demystifying intellectual property

Central to GWIIN's work is the demystification of intellectual property (IP) issues, often cited by members of the network as the single greatest benefit of membership. Seminars, workshops, networking events, awards, exhibitions and information products are all used to transfer knowledge and educate participants as to the fundamental role of IP rights in the development and commercialization of innovations. To maximize effectiveness and reinforce the support networks, GWIIN builds close links with relevant organizations such as national patent offices. It also brings women with first-hand experience of registering, using and enforcing IP rights together with aspiring female inventors, in order to provide inspiration and examples of successful practice.

A network of regional member groups, working in partnership with local government agencies and educational institutions, gives GWIIN a broad geographical reach in Africa, Asia and Latin America. The organization has also partnered recently with London Metropolitan University to set up the *European Women Inventors and Innovators Network*, and will be launching some of its "best practice concepts" in Brussels early next year.

Simi Belo, who runs a UK-based hair products business, explained the impact that GWIIN had on her own decision-making regarding IP rights: "Two years ago I attended a WIPO workshop at the GWIIN event in Singapore. At the time, I was knee-deep in applying for IP rights to protect my innovative wig design. The workshop was great in helping me realize which areas I needed to focus on given the extremely limited budget I had available." Ms. Belo opted for a licensing business model, and now has in place a six-figure licensing deal in the USA for the production, sales and marketing of her NewHair® wigs. "GWIIN's practical approach to demystifying IP rights and sharing experience was pivotal to the



## Only 42 Mexican women filed patent applications during the past five years compared to 671 by their male compatriots.

success of the business. Now I contribute in turn by sharing the experience I have gained."

### Mexican women in the spotlight

But with ever more women achieving success in science, technology, and engineering, might not organizations to promote women inventors have almost outlived their need? Patenting statistics suggest otherwise. Figures from the Mexican Institute for Intellectual Property (IMPI) cited at the Women Inventors & Innovators Conference, Exhibition & Awards in Mexico City in May, indicate that only 42 Mexican women sought patents for inventions during the past five years. This was compared to 671 patents filed by their male compatriots – and contrasted further with over 32,000 patent applications over the same period from non-Mexican nationals, mostly from the United States of America.

The event in Mexico City, staged by GWIIN and Inova Consultancy, with partners including IMPI, the National Council for Science and Technology (CONACYT) and the National Institute of Women, sought to set about redressing that imbalance. The event was hailed as a success. "It shone a national media spotlight on many unsung heroines among the nation's creative and pioneering women," said Ms. Olabisi. If the experience of GWIIN award-winners in other countries is anything to go by, the resulting publicity for the Mexican inventors should give a substantial boost to efforts to commercialize their inventions. CONACYT Deputy Director Silvia Álvarez Bruneliere summed up the spirit of optimism, telling the press, "The event opens tremendous possibilities for the talents of Mexican women, and encourages their participation in furthering our national development." CONACYT and IMPI pledged a special fund to support the development of the winning projects.

The overall winner was Dr. María del Socorro Flores González, of Nuevo León University (UANL), for her



**Dr. María del Socorro Flores González won the MEXWII 2006 award for her work on diagnostic methods for the parasitic disease, invasive amebiasis. She will compete against other regional winners in India in 2008.**

patented processes to diagnose invasive amebiasis, a parasitic disease which effects millions of people in developing countries, and kills over 100,000 each year. The results of 20 years of research, these meet the need for improved diagnostic methods using technologies appropriate for developing countries, previously available diagnostic tests having proved insufficiently sensitive when used in endemic zones. Dr. del Socorro Flores González will go on to compete in India against regional winners from Europe, Africa, the Middle East and Asia.

Other prize-winning innovations at the Mexican event covered widely diverse sectors. They ranged from a project to produce therapeutic agents from the controlled cultivation of Mexican medicinal plants; to *Radio-ADO*, a radio broadcast providing sex education for adolescents by adolescents; to a prefabricated pneumatic room or house.

### Where next?

"I think we're going to be seeing a lot more innovations coming from women in Africa," says Ms. Olabisi. "There's a tremendous potential there. Look out for the Pan-European event in Brussels early next year, and the Pan-African Conference and Awards in Cameroon in October 2007."

For more information on GWIIN see [www.gwiin.com](http://www.gwiin.com).

# A TALE OF TWO SMEs

*Many a small business owner feels swamped by IP-related information from websites, newsletters, publications and IP offices. Yet relatively little of it is well-tuned to the needs of small and medium-sized enterprises (SMEs).*

*A joint initiative from the European Patent Office (EPO), the Danish Patent and Trademark Office, the French Industrial Property Office, the German Patent and Trade Mark Office and the United Kingdom Patent Office responds to the need for more specific information about how real SMEs manage their IP. Together they have compiled a series of case studies based on extensive interviews with SMEs, and, drawing from these studies, have formulated twelve key recommendations.*

*The following two case studies have been adapted by WIPO Magazine courtesy of the EPO. The full versions and further case studies are available at [www.epo.org/sme](http://www.epo.org/sme).*

## NYCOMED, Denmark: Competing against pharmaceutical giants

Photos: Nycomed



**Nycomed headquarters. In-licensing novel products from U.S. pharmaceutical companies has proved a profitable niche.**

Back in 1874, a Norwegian pharmacist, Morten Nyegaard, founded Nyegaard & Co. with the aim of improving health education. Along the way, he introduced some 900 products from Norway to the rest of Scandinavia and created a pharmaceutical research center to produce new drugs. Today, the privately owned company, renamed Nycomed and based in Roskilde, Denmark, employs 3,300 people (small compared to the 64,000 employed by Astra Zeneca in neighboring Sweden) and operates in 20 European markets, Russia and the CIS. Net sales in 2005 were €1,747.5 million (US\$2,234.5 million). Its key products include drugs to combat osteoporosis and acid-related gastrointestinal diseases, drugs designed to stimulate wound healing, and an anticoagulant used in cardiology.

Unlike many of its competitors, Nycomed focuses less on creating new products, and more on marketing to expand the reach of its products, including those that it licenses in from other companies. It favors products that can be marketed in multiple countries and with a sales potential of over €150 million (US\$192 million). Rather than trying to com-

pete across the board with the big pharmaceutical companies, it has chosen to compete in particular markets and with carefully selected products. The strategy is working. The company's best-selling product, CalciChew, (a combination of calcium and vitamin D3), is the top calcium product in Europe with a 40 percent market share. Pantoloc/Zurcale (for gastro-intestinal diseases), which it licenses from another company, is the number one seller in its class in Austria and number two in the Netherlands and Belgium.

Most of the company's in-licensing partners are U.S. pharmaceutical companies, unfamiliar with Europe's complicated markets. "Helping foreign companies bringing their novel products to Europe has proven to be a very good niche," says Aase Helles, head of the Nycomed IP team.

### Money well spent

Marketing products successfully also means protecting the company's associated IP rights in them. In 2003, Nycomed estimated that 46 percent of its turnover came from patent-protected products. Today that figure has risen to between 55 and 60 percent and will continue to rise as all newly introduced products are patented.

Managing IP is complicated and costly with a portfolio consisting of some 510 patents, plus 800 or so registered trademarks which provide some protection from generic competitors once patents cover-



Photos: Nycomed

**Nycomed's three most productive inventors at work**



**Patent-protected products, such as these wound-healing and pain treatments, generate some 60 percent of Nycomed's annual turnover.**

ing the products expire. The company budgets €12.3 million (US\$15.7 million) per year to file, protect and exploit patents. Litigation is especially expensive. A single action in a single country costs roughly €1.5 million (almost US\$2 million), and much more for litigation covering several countries and appeals. But Nycomed considers the money well spent and has yet to lose a lawsuit.

## Patents serving business needs

Nycomed has a clearly articulated patent strategy, which is formally approved by the CEO. The patent policy serves as a mission statement and guides the company's decision-making.

The company has a set procedure on patenting new products. The patents are first filed in Denmark, where costs are low and the procedures familiar. This gives a year to decide whether to expand the reach of the patent. If so, Nycomed then typically files patents in all European countries, Russia and the CIS, Canada, China, Japan, the U.S. and other selected countries.

Nycomed also protects its products in other ways. Sometimes, it simply tries to keep processes secret, although it is difficult to prevent employees who join

competitors from divulging secrets. At times Nycomed takes the opposite approach, publishing information about processes to put them in the public domain and keep them from being patented by others.

*"We treat our patents like money."*

**Aase Helles**

Each year the company conducts a major IP review. Any patents in its portfolio that are no longer generating revenue are checked for their licensing potential. If there is none, they may be abandoned by the company or assigned to a university. "We [don't] spend where we don't have business," says Ms. Helles. Competitors' patents are also scrutinized to ensure they are not infringing the company's patents and vice versa. The annual patent review can also identify new technologies and ideas to pursue.

Nycomed's experience shows how a well thought-out and executed IP strategy can keep a relatively small company competitive in a market dominated by much larger rivals. "Our patent strategy today is very much linked to our business strategy," explains Ms. Helles. "We treat our patents like money."

For more information on Nycomed see [www.nycomed.com](http://www.nycomed.com)

## IP Profile

**Patent protection:** 510 patents in 39 patent families

**Filing order:** Denmark, then all European countries, Russia and CIS, Canada, China, Japan, U.S. and others.

**IP department:** Internal team of 9 specialists. External patent attorneys are also used.

**Budget:** €12.3 million (US\$15.7 million)

**Success factors:** Clear link between IP and business strategy

**Challenges:** Litigation costs. Translation costs.



## INTELLIGENT TEXTILES, UK: Smart use of fabrics

A few years back, two university academics, Stan Swallow and Asha Peta Thompson, created a process of weaving electrical circuits into fabrics such as cotton, wool and polyester. Whereas previous technologies involved fusing multiple layers of cloth, their fabric is a flat piece of cloth that looks like

any other. Woven with conductive fibers and connected to an energy source such as a battery, the fabric can, for example, incorporate heating elements to warm a glove; or sensors that respond to pressure transforming a piece of cloth into a computer keyboard. Having patented their technology, the inventors set up a company.

Intelligent Textiles is a tiny fish in a huge ocean. It operates out of a two-room studio near London, with sewing machines on the desks and a wooden loom in the

corner. Three part-time staff do technical, administrative and sales work. Its handful of customers includes a clothing company, which makes a jacket with Intelligent Textiles' technology in the sleeve to control an MP3 player. The technology is also used in an easy chair that reclines at a squeeze of the armrest; and in foot-warming insoles for shoes and ski boots. The founders also sell their know-how through consulting contracts to a range of industries in Europe and the U.S. While sales volumes are modest, the potential is large.

### The gamble pays off

Dr. Swallow, a design engineer, was a lecturer at Brunel University. Ms. Thompson, a weaver by training, was a research fellow at the same university, designing educational toys for disabled children. From the start, they viewed IP as crucial enough to handle much of the patent filing work themselves. Even though the university supplied a patent attorney, they spent some six months drafting the 30-

page U.K. patent application, conducted their own novelty search for conflicting patents in addition to searches by professional providers, and consulted outside patent attorneys to be sure they were getting the best advice from the university's expert.

Originally, the university owned the patent. In 2000, Dr. Swallow and Ms. Thompson took a gamble and bought back the rights, emptying their savings accounts and borrowing from family and friends to do so. It was not an easy decision. While the university could provide further research and development, they worried that the technology's potential might prove too big for the institution to handle. They needed to commercialize the product quickly. "That is notoriously difficult from inside a university," says Dr Swallow.

Shortly after establishing the company, they took a road trip to approach potential customers. A technology manager at a major toy company warned that they were sure to end up fighting for their IP rights in a court of law. Encouraged, they decided to expand the patent's reach by filing under the PCT and with the EPO.

The filing with the EPO gave them an unexpected advantage during negotiations with their first customer, Australian Wool Innovation. "It was stated in no uncertain terms that had our patent only been granted by Australian authorities instead of the European Patent Office, it wouldn't have been valued nearly as highly," says Ms. Thompson. The resulting contract was large enough to fund further development and to pay back family and friends. The company has been operating on cash flow ever since.

### Growing sales organically

Although venture capitalists have offered money to expand the company, the two have preferred to keep the business small and grow sales organically. This has meant outsourcing what they do not have time to do themselves. Having cut, sewn and tested the first 10,000 units themselves, they now out-



Photos: Courtesy of Intelligent Textiles

**Pressure sensors in a wheelchair cover to prevent pressure sores.**

### IP Profile

**Patent protection:** 17 patents in two families.  
**Patent filing order:** UK, then the PCT and EPO.  
**IP department:** The founders manage their own IP.

**Budget:** Approx. £40,000 ((US\$75,000) per year.  
**Success factors:** First-mover advantage.  
**Challenges:** Infringement risk.



*“Without our patents we probably wouldn’t have a company.”* **Asha Peta Thompson**



**A piece of cloth transformed into a computer keyboard.**

source manufacturing to an English firm. A patent attorney was among the first of their external recruits. After interviewing six candidates, they opted for the patent attorney originally assigned to them by the university, because of his enthusiasm for the technology and his familiarity with a wide range of industries and IP filings.

Today, they own 17 patents in two families, as well as a few trademarks. Four companies hold options to license Intelligent Textiles’ technology. Not everything is patented; some know-how is kept secret. They have spent more than £100,000 (US\$185,000) on IP filings and protection, not including the initial cost of buying the patent from the university. Annually they continue to spend as much as £40,000 (US\$75,000) on IP-related issues.

They still do much IP work in-house to save money, and because they prefer to remain closely involved in this critical part of their business. Dr. Swallow drafts the documents, while the patent attorney checks and files them. Dr. Swallow also spends time each month scanning the EPO’s database by keywords, inventor names and company names to check for infringement of his patents, the movements of competitors, and for inspiration. As the market grows, policing patent infringement becomes trickier, especially in markets such as China, says Dr. Swallow. “As soon as you file, you have a time bomb ticking,” says Ms. Thompson.

To date, a first-to-market strategy, strong IP, and good fortune have kept the company from being swept away by larger rivals. But they are conscious that this situation cannot last forever, and in the meantime, they work around the clock. They hope one day to hire apprentices, but say they will continue to keep a tight rein on IP. “Without our patents,” says Ms. Thompson, “we probably wouldn’t have a company.”

For more information see [www.intelligenttextiles.com](http://www.intelligenttextiles.com).

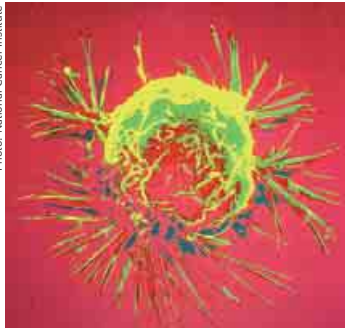
## Key recommendations based on interviews with SMEs

- **Develop an IP strategy:** define your goals and know the level of patent protection you need at each step.
- **Get professional help:** use a patent attorney if you do not have the skills in-house.
- **Choose the right patent attorney:** (s)he should know your technical field well; and give sound, efficient advice taking into account your resource constraints.
- **Do not underestimate the cost** of attorney charges, translation costs, renewal and other fees.
- **Demand information:** ask your attorney for a clear overview of the filing process, waiting periods and costs involved in a patent application.
- **Adapt your filing strategy to your business needs:** do not patent everything and everywhere. Be selective about which ideas and markets are worth protecting.
- **Do not view licensing as failure:** it can be a lucrative alternative to manufacturing your own invention.
- **Revise your patent portfolio continuously:** filter out patents with no business perspective for exploitation or licensing.
- **Watch the technology and the competition:** use free patent information and other sources (e.g. scientific publications, trade journals) both to inspire yourself and to identify potential infringers.
- **Communicate pro-actively:** communicating the protection of your IP is a cost-efficient means to reduce the potential risk of infringement
- **Keep in touch with your licensee:** regular contact provides you with information on your licensee’s activities and thus can prevent default.
- **Be sure of your case:** if you are planning to fight an infringement make absolutely certain that you are in the right. Otherwise a lawsuit could be a quick route to bankruptcy.

# BIOETHICS AND PATENT LAW

## The Case of Myriad

*This article is the third in an occasional series, which highlights issues that have arisen in some significant patent law cases concerning bioethics. Here we look at the Myriad case which, as well as raising questions about patenting genetic inventions, demonstrates how certain bioethical issues go beyond questions of patentability, to the way in which a patent, once granted, is exercised in the marketplace.*



Electron micrograph of a breast cancer cell

### Myriad's gene patents for breast cancer screening

BRCA-1 and BRCA-2 are two genes linked to susceptibility for breast and ovarian cancer (hence their acronyms). The risk of falling ill increases if these genes show certain mutations. Identifying the mutations is therefore important for diagnosis and for monitoring higher-risk women.

*Myriad Genetics Inc.*, in collaboration with the University of Utah, were the first to sequence the BRCA-1 gene, and applied for patent protection in 1994. Together with the University of Utah Research Foundation and the United States of America, *Myriad* holds U.S. patents 5747282 and 5710001 on the isolated DNA coding for a BRCA-1 polypeptide and on a screening method. In 1997, together with the *Centre de Recherche du Chul* in Canada and the Cancer Institute of Japan, they received patent protection on an isolated DNA sequence, asserting rights over a number of mutations in the gene (U.S. Patent 5693473). Further patent applications were filed on the second gene, BRCA-2, in the U.S. and in other countries (U.S. Patents 5837492 and 6033857).

### Technical challenge and ethical objections

These patents were controversial. Oppositions were filed against the European Patent (EP 705902) on the isolated BRCA-1 gene by, among others, Switzerland's Social Democratic Party; Greenpeace

Germany; the French *Institut Curie; Assistance Publique-Hôpitaux de Paris*; the Belgian Society of Human Genetics; the Netherlands, represented by the Ministry of Health; and the Austrian Federal Ministry of Social Security. The opponents challenged the patent on the basis of the European Patent Convention's patentability criteria, arguing that the claimed invention lacked novelty, inventive step and industrial application, and that the patent failed to disclose the invention sufficiently for a person skilled in the art to carry it out.

Underlying the technical grounds for opposition were deeper ethical and policy concerns. In addition to the continuing questions about patenting inventions derived from the human genome, the *Myriad* case raised concerns about the potentially limiting effects of the patents on further research, on the development of new tests and diagnostic methods, and on access to testing. While the considerable medical benefits of the cancer screening technology were not in dispute, there were differing views about how the patent system should recognize such technology, if at all, and about how patents on such technology, once granted, should be exercised.

The opposition proceedings led to the revocation in 2004 of European Patent 699754, which covered a method for diagnosis. The proceedings found that errors in the original patent application had not been corrected until the gene sequences were in the public domain. This meant that, according to patentability criteria, the invention had **not been fully disclosed** in the application as originally filed; and was **not novel** by the time the invention was fully described in the amended application.

The other two patents on the BRCA-1 gene were amended to **exclude diagnostic methods**. (The decisions are currently under appeal.) A patent on the second gene, BRCA-2, was maintained in amended form.

## Ethics in patenting

This case demonstrates how technical grounds of patentability also act as important safeguards of the public interest, aimed at ensuring that patents are only granted on genuine advances in knowledge, and are not used to exclude access to material in the public domain.

## *Technical patentability criteria also help safeguard the public interest*

But the case also highlights the ongoing policy debate on the patenting of human genes in general and, more specifically, on the patenting of genes used in diagnostics because of fears that such patents may constrain new diagnostic methods. The European Parliament articulated this concern in a 2001 resolution against the *Myriad* patents,<sup>1</sup> calling on the European Patent Office to ensure the “principle of non-patentability of humans, their genes or cells in their natural environment;” and asserting that the human genome should be freely available for research purposes.

The balance remains a difficult one. For as long as society relies largely on private entities to invest in developing new genetic research-based treatments and diagnostics, biopharmaceutical companies like *Myriad* will continue to require some degree of exclusivity over these technologies as a means of obtaining a return on their investment. But there is concern that some gene patents are, for example, drafted too broadly, with the effect of over-compensating the patentee by covering all future applications.

## Ethics in licensing

Much of the debate surrounding the *Myriad* case, however, concerned not the validity of the patents as such – similar patents held by other entities have not attracted the same criticism – but rather the ethics of how the patent rights were exercised commercially.

*Myriad's* critics charged that its licensing policy, and the high prices demanded for testing under the patented technologies, had the effect of preventing other laboratories in countries where the patent was in force from carrying out diagnostic testing. The case

raised questions as to whether, and if so how, regulators should step in to deal with concerns about licensing practices. This led to a range of government interventions, and reportedly influenced the evolution of French patent law. Certain soft-norm initiatives have tried to define good licensing practices. The Organisation for Economic Co-operation and Development (OECD) Guidelines for the licensing of genetic inventions<sup>2</sup> suggest a relatively open approach to licensing, particularly for genetic tests.

## A complex interplay

Developing screening methods for breast cancer clearly serves the public interest, and there is consensus on the value of the technology as such. The patenting of the gene sequence, mutations and diagnostic tests remains controversial. The close scrutiny of whether the *Myriad* patents complied with the technical grounds for patentability showed how these technical criteria can help to safeguard the public interest, particularly in such sensitive areas of technology. Finally, the case sparked important questions as to the ethical dimension of licensing practices of genetic inventions.

1. European Parliament Resolution on the patenting of BRCA1 and BRCA2, 04.10.2001

2. [www.oecd.org/dataoecd/39/38/36198812.pdf](http://www.oecd.org/dataoecd/39/38/36198812.pdf)

# UPOV: THE IMPACT OF PLANT VARIETY PROTECTION

Florist shops dazzle with flowers of ever more diverse colors, petal shapes and perfumes. Market displays of fruit and vegetables offer tempting new varieties – bigger, plumper, more flavorsome or appealing to the eye. Food items, such as bread, potatoes, rice, are cheap and of a high quality. These advances all depend on the work of plant breeders.



**Members of UPOV (shown in dark green) and States and organizations which have initiated the accession procedure (shown in light green): June 2006**

Today breeders, whether individual enthusiasts, farmers, research institutions or multinational corporations, work to develop new plant varieties. Improved varieties are a necessary and cost-effective means of improving productivity, quality and marketability for farmers and growers. However, breeding new varieties of plants requires a substantial investment of skills, labor, material resources, money and time – it can take more than 15 years to bring a new variety to the market. Intellectual property (IP) protection is therefore afforded to plant breeders as an incentive for the development of new varieties to contribute to sustainable progress in agriculture, horticulture and forestry.

The Geneva-based International Union for the Protection of New Varieties of Plants (UPOV) is an independent intergovernmental organization. Its mission is to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants for the benefit of society. UPOV administers the UPOV Convention, the purpose of which is to ensure that its members acknowledge the achievements of breeders of new varieties of plants by

granting them an intellectual property right on the basis of a set of clearly defined principles. The opportunity to obtain certain exclusive rights in respect of new varieties provides successful plant breeders with a better chance of recovering their costs and accumulating the funds necessary for further investment. Without such rights, there would be nothing to prevent others from reproducing the new variety and selling it on a commercial scale, with no benefit accruing to the breeder.

## Report on the impact of plant variety protection

The *UPOV Report on the Impact of Plant Variety Protection*, published in 2005, concludes that the plant variety protection offered under the UPOV system is effective in its purpose as an incentive for the development of new, improved varieties of benefit to farmers, growers and consumers. The report, the first of its kind since the adoption of the UPOV Convention in 1961, includes a study on the effects of plant variety protection in five countries, namely, Argentina, China, Kenya, Poland and the Republic of Korea.

Commenting on the report, UPOV Secretary-General Kamil Idris\* said, "Some very clear messages have emerged from this study, perhaps the most important being that the introduction of the UPOV system of plant variety protection, and membership of UPOV, can open a door to economic development, particularly in the rural sector." He added, "An important feature of the study is that it indicates the range of ways in which plant variety protection can produce benefits, and also demonstrates that the benefits differ from country to country, reflecting their specific circumstances." The President of the Council of UPOV, Miss Enriqueta Molina Macías from Mexico, noted that the UPOV system gave farmers, growers and breeders access to the best varieties produced by breeders throughout UPOV member territories. "Under the UPOV system, a breeding cycle of progression can continue to maximize the benefits of plant variety protection and plant breeding for the future," she said.

\*Dr. Idris is also the Director General of WIPO.



## Benefits of protection

The report highlights the many and varied benefits of new plant varieties. Notable among these are:

- economic benefits, such as varieties with improved yields which lead to reductions in the price of end-products for consumers, or improved quality leading to higher value products with increased marketability;
- health benefits, for example through varieties with improved nutritional content;
- environmental benefits, such as varieties with improved disease resistance or stress tolerance; and
- pleasure, such as that afforded by ornamental plants.

## Number of new varieties

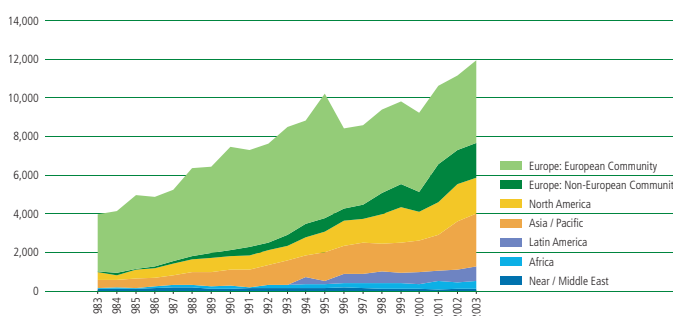
Individual country reports demonstrated increases in the overall numbers of varieties developed after the introduction of plant variety protection. These included, for example, staple crops in the agricultural sector, such as barley, maize, rice, soybean, wheat; important horticultural crops, such as rose, Chinese cabbage, pear; traditional flowers, such as peony, magnolia, camellia in **China**; forest trees, such as poplar in **China**; and traditional crops, such as ginseng in the **Republic of Korea**. The reports brought out the importance of extending protection to all genera and species in a country in order to receive the full benefits of plant variety protection.

The Impact Study also revealed that the introduction of the UPOV plant variety protection system and, in particular, membership of UPOV was accompanied by a large number of variety applications by foreign (non-resident) breeders, particularly in the ornamental sector. This was seen as enhancement of the global competitiveness for producers.

## Domestic breeding

**Argentina** reported on an increase in the number of domestic breeding entities, mostly in the private sector, for example, in soybean and wheat. The

**Republic of Korea** showed an increase in the number of breeders of certain crops, such as rice and rose. **Poland** reported an increase in the number of commercial breeding entities and an overall increase in the number of improved varieties produced, despite a reduction in state-funded breeding and a decline in the overall number of domestic breeding entities. **China** reported on the stimulation of commercial breeding activities in domestic public research institutes and domestic seed companies, with an increase in the number of breeders (e.g. maize and wheat in Henan Province) linked to increased numbers of plant variety protection applications. The protected varieties generated income for breeders, including public research institutions and agricultural universities, and encouraged further investment in plant breeding.



**With the expansion of UPOV, the importance of plant variety protection has grown in different regions, as illustrated by the number of applications.**

The **Republic of Korea** reported on the stimulation of certain sectors of plant breeding. For example, individual breeders (farmer breeders) and university researchers entered the rice-breeding sector. Since the introduction of PVP there had been an important transformation in the rice breeding sector to meet the evolving demands for rice. In the sector of rose breeding, private-breeders have appeared, leading to an increased number of domestic varieties. **Kenya** reported a facilitation of public/private partnerships for plant breeding, including partner-



**Betsy: a Strelitzia variety, bred by Mrs. Mary Consolata Muriithi, from Kenya, whose application for PVP is under examination.**

**New high-quality variety Chunpoong – Five new ginseng varieties from the Republic of Korea have received protection and applications for two further varieties have been filed. In ginseng, the percentage of high quality “red ginseng” roots compared to the total amount of ginseng roots is one of the most important commercial characteristics. The new varieties show a high level of red ginseng – 20 to 38 percent in comparison to 15 percent for the average conventional ginseng variety.**



ship between international research institutes and Kenyan seed companies, and the emergence of new types of breeders (university researchers, private farmer breeders).

An effective plant variety protection system can provide important benefits in an international context by removing barriers to trade in varieties, thereby increasing domestic and international market scope. Breeders are unlikely to release valuable varieties into a country without effective protection. With access to valuable foreign-bred varieties, domestic growers and producers have more scope to im-

prove their production and to export their products. Moreover, as a consequence of the breeder's exemption in the UPOV Convention (whereby acts for the purpose of breeding other varieties are not subject to any restriction), domestic breeders also gain access to valuable varieties for use in their breeding programs. The report notes that this international aspect is an important means of technology transfer and effective use of genetic resources.

## Distance Learning

The UPOV distance learning course, *Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention (DL-205 Course)*, is aimed at public and private sector participants with experience and/or interest in plant variety protection. The course will run from September 18 to October 22, 2006, in English, French, German and Spanish. The closing date for registration is August 25.

For more information, course fees, and online pre-registration see: [www.upov.int/en/about/training.html](http://www.upov.int/en/about/training.html)

# 2006 WORLD CUP

## What was the IP Score?

The FIFA 2006 World Cup has been one of the most popular sporting events ever. And what with cutting edge technology, massive trademark and merchandizing deals, and billion dollar revenues from broadcasting rights, IP proved a top scorer both on and off the pitch.

### Some winners

With projected television audiences of 32.5 billion people in 215 countries, the World Cup was a bonanza for broadcasting organizations. The International Federation of Football Association (FIFA) sold **broadcasting rights** worth one billion euro (US\$1.3 bn) to over 500 broadcasting organizations, including television, radio, mobile telephony and Internet licensees. In Brazil alone, five TV companies signed licensing agreements. 60.5 million viewers in the region watched Brazil's opening match; while almost a quarter of all South Korea's TV viewers got up at 4am to watch their team play France.

FIFA signed **trademark licensing** deals worth US\$840 million with the tournament's 15 official international sponsors and six national sponsors. The sponsors gained exclusive rights to use FIFA's World Cup trademarks and emblems in publicity and marketing.

Two **technological innovations** from Philips Electronics won places in the limelight – with their *ArenaVision* stadium lighting creating the limelight. Oval-shaped floodlights, based on optical research, were designed to enhance color

quality, decrease spill-light and glare, and “dramatically increase the theatrical and emotional values for TV audiences, spectators and players alike,” say Philips. (– Though some of us could not have handled much more emotional value.)

Philips' PCT-patented, radio frequency identification (RFID) technology was brought on to tackle ticket fraud. All 3.2 million tickets contained tiny electronic data-processing chips, plus an antenna to receive and broadcast radio signals, allowing contact-free scanning at venue gates.

From the commentators' box, WIPO's PCT team add that 14 out of 15 of the World Cup official sponsors use the PCT to file international patent applications for their technological innovations.



**Sales of Adidas' TeamGeist™ balls soared, though at prices above most young fans' heads.**

Adidas' *TeamGeist™* (Team Spirit) ball was selected for the championship because of its innovative construction. It uses only 14 panels instead of the traditional 26 or 32 hexagons, with correspondingly fewer seams. Adidas claims their roundest,

smoothest football ever offers players increased accuracy and control – although England goalie Paul Robinson was not alone in finding the ball lightweight or unpredictable (even before that penalty shoot-out). Its distinctive **industrial design**, registered through the European Union, plus powerful branding, kicked off sales of 15 million official *TeamGeist* balls.

### Some losers

FIFA lost its bid to trademark two German language designations for the championship for use on “goods and services relating to the organization of sporting events.” The German federal supreme court in April found that **FUSSBALL WM 2006** and **WM 2006** lacked distinctive character, and were generic references to an event and not to a body such as FIFA. (WM, for *Weltmeisterschaft*, means World Cup).

“Smart ball” technology under development by Adidas was judged not yet fit for play. Designed to prevent refereeing mistakes, the ball contains a microchip which sends a signal to the referee the moment it crosses a goal or boundary line. Similar chips would be inserted in the players' shin pads.

### Red cards

Counterfeiters faced a vigorous defense by FIFA of its IP rights. A dedicated 12-person team had already flagged some 2,500 violations by the time of the first match in Germany.



**FIFA's revenue from sales of trademark licences and broadcasting rights far outstipped ticket sales.**

# MOROCCO'S VISION 2010



Courtesy: Adam Bouhadma/www.villes-du-maroc.com

**Marrakech. The government has identified the tourism sector as one area that could benefit from the tools of the IP system.**

The initiative by King Mohamed VI of Morocco in support of sustainable development includes the opportunity for intellectual property (IP) to contribute to economic, cultural and social development. Morocco's economic environment is evolving fast, and the country's policy-makers believe that a balanced, strong IP system should boost the competitiveness of Moroccan enterprises and stimulate investment. The government has identified, for example, the expanding tourism and handicraft sector as one of many areas that could benefit substantially from the tools of the IP system. Seeking to follow the path of IP success stories such as Singapore, Korea and Malaysia the government is working to develop a clear IP strategy within the framework of the national plan for development.

The Moroccan Ministry of Trade and Industry, which oversees the industrial property office, has set objectives aimed at reinforcing the ability of Morocco's commercial and industrial sector to operate in world markets, at creating a more competitive business environment, and at attracting foreign investment. A strategic plan, "Vision 2010 for Industrial Property and Commerce," drawn up by the Moroccan Industrial and Commercial Property Office (OMPIC – *Office marocain de la propriété ind-*

*ustrielle et commerciale*) sets out how these objectives are to be reached, and an industrial property culture created in Moroccan enterprises.

OMPIC performs similar tasks and services to most industrial property offices, registering and issuing titles for patents, trademarks and industrial designs as well as company names. It has a "front-office" with individual specialized booths to respond to clients and process files in each of these areas. However, OMPIC is also responsible for the broader strategic objectives of promoting the industrial property system and for implementation of the Vision 2010 plan.

Vision 2010 addresses five main areas: the legal environment, innovation and monitoring technology, marketing and communication, and organizational structure and human resources. It is a two-phase plan, the first phase runs from 2005 to 2007 and second will run from 2008 to 2010.

The plan sets specific performance indicators in terms of industrial property titles, which enable OMPIC to gauge the effectiveness of its actions and to make corrections where necessary. The performance indicators include:

- Patents – an increase in applications of 20 percent per year, of which 40 percent would be national applications. Thus reaching the goal of 1,500 applications per year in 2010.
- Trademarks – a growth of 12 percent per year, of which 80 percent would be national, to reach 10,000 registered marks in the national registry for 2010.
- Industrial designs – a growth of 20 percent per year, of which 90 percent would be national, to reach 1,000 deposits of industrial designs by 2010.

## Cooperation

In order to achieve its goals, OMPIC seeks cooperation with other industrial property offices in addition to its cooperation with WIPO. In the first phase of Vision 2010, OMPIC is working on its five defined action areas with the European Patent Office, the French National Institute of Industrial Property, the



## Kingdom of Morocco

**Area:** 446,550 km<sup>2</sup>

**Capital:** Rabat

**Population:** 32.7 million

**Languages:** Arabic, Berber dialects and French – the main language of business

**Main Industries:** Phosphate rock mining and processing, tourism, leather goods, textiles

Morocco is a constitutional monarchy, located in North Africa. It borders on both the Atlantic Ocean and the Mediterranean Sea. The Atlas Mountains divide the country in two. Most of the population lives northwest of the mountains, which separate them the Sahara Desert, which covers the country's southeast and is sparsely populated and economically unproductive.

Morocco has signed Free Trade Agreements with the European Union (to take effect 2010) and the United States of America (entered into force in January 2006). Its main export and import partners are European. The country is dependent on foreign energy.

(source wikipedia.org)

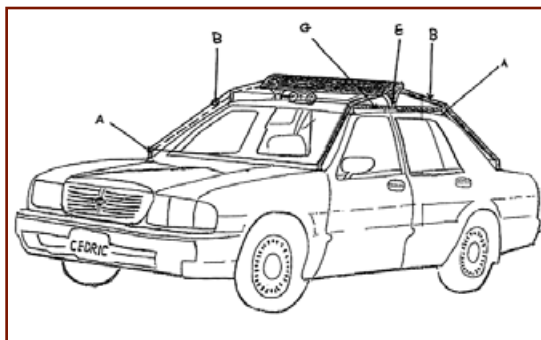
Spanish Patent and Trademark Office and the Turkish Patent Institute. This cooperation has permitted the creation of national awareness programs and the organization of workshops to train OMPIC's personnel, its partners and local enterprises. This sustained effort has already contributed favorably to the development of industrial property in Morocco as reflected in the performance indicators.

OMPIC has further extended its cooperation activities to include professional business associations. This partnership aims at assisting businesses to develop, register and use industrial property, as proclaimed by its slogan, *OMPIC – A partner for your success.*

### OMPIC online

An early success for Vision 2010 was the extension of OMPIC's online services. OMPIC automated the management of industrial property registrations in its offices in 1998 and soon after made it possible to conduct online searches for prior art in patent applications, or prior trademark or industrial design registrations (see [www.ompic.org.ma](http://www.ompic.org.ma)). Now, OMPIC has added an online trademark filing facility to increase rapidity, transparency and availability, and to complement the trademark and commercial name search service it offers to Moroccan businesses.

OMPIC now also offers a wide array of other services to users at [www.directInfo.ma](http://www.directInfo.ma). These include "DirectInfo Bilan", which provides access to the



**Drawing from PCT/WO/2004/033240 filed by Nadia Khaoulani of Casablanca, for a "Vehicle cover for protection against heat." Morocco joined the PCT in 1999.**

market and financial reports of diverse companies; "DirectInfo Entreprise", which provides company histories; and "DirectInfo Marques", which permits access to the online trademark filing system. OMPIC received the National Prize for Electronic Administration for the quality of its services.

### Future outlook

Morocco has made great advances in modernizing and boosting its IP capacity and infrastructure in recent years, and was cited recently by WIPO Director General Kamil Idris as a model for the region. Only one year into the first phase of Vision 2010 OMPIC is seeing quantifiable results. The office aims to further increase cooperation and is proactively seeking new partners.

## APPOINTMENT OF TOP MANAGEMENT TEAM

Member States in the WIPO Coordination Committee approved by consensus on June 20 the proposals put forward by WIPO Director General Kamil Idris for a new senior management team. With the exception of one Deputy Director General appointment, these posts have been filled from within the Organization, so facilitating continuity in the management structure. The appointments are effective from December 1, 2006, to November 30, 2009.

The Committee noted that all the candidates are well qualified for the proposed positions. The Director General and the Coordination Committee paid warm tributes to the outgoing Deputy Directors General, Mrs. Rita Hayes of the U.S.A. and Mr. Geoffrey Yu of Singapore, with praise for the dedication and commitment to excellence with which they served WIPO.

Dr. Idris said he shared the concern, referred to by several delegations, that equitable geographical distribution and gender balance should be respected in WIPO staffing. He noted that much progress had been made in this regard since his appointment as DG in November 1997. The number of member countries represented in the staff of WIPO rose from 68 in December 1997 to 94 in May 2006, representing an increase of 28 percent.

The new team consists of the following Deputy Directors General:

- Mr. Philippe Petit (France) (reappointed),
- Mr. Francis Gurry (Australia) (reappointed),
- Mr. Narendra Kumar Sabharwal (India),
- Mr. Michael Keplinger (United States of America).

And of the following Assistant Directors General:

- Mr. Ernesto Rubio (Uruguay) (reappointed),
- Mr. Geoffrey Onyeama (Nigeria),
- Ms. Binying Wang (China).

Dr. Idris also noted that the number of female staff in the professional and higher categories had been 63 out of 209 (30 percent) in December 1997, compared to 184 out of 433 (42 percent) in May 2006, an increase of 12 percent.

## GENERAL ASSEMBLY TO DECIDE FUTURE WORK ON A DEVELOPMENT AGENDA

The Provisional Committee on Proposals related to a WIPO Development Agenda (PCDA), which met from June 26 to 30, decided to refer a decision on the future work of a development agenda for WIPO to the WIPO General Assembly, which will meet in September.

At its last meeting in February 2006, discussions on establishing a development agenda for WIPO resulted in agreement on a structure for future work under six main themes, grouping 111 proposals that were submitted by

Member States. The Provisional Committee, which was established by the WIPO General Assembly in autumn 2005 to accelerate and complete discussions on this matter, agreed that the six theme structure would be the basis for continued discussions.

At this meeting, the PCDA discussed the proposals categorized under the different themes and Member States expressed their specific concerns in respect of these subjects. They highlighted the need to arrive at early decisions so that the process could be

taken forward. A few proposals were made with regard to the future work program and recommendations to be submitted to the General Assembly. Delegations discussed them in detail and decided to leave this question to the General Assembly.

All delegations acknowledged the importance of the issues raised during the development agenda process and the need to continue discussions on how to enhance the development dimension in all of WIPO's work.

# ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS THROUGH BORDER MEASURES

## Law and Practice in the EU

*Enforcement of Intellectual Property Rights Through Border Measures – Law and Practice in the EU*, edited by Olivier Vrins and Marius Schneider, is a very practical contribution to the concerted fight against counterfeiting and piracy. The book provides a detailed, structured analysis of the border measures currently in place in each of the 25 European Union (EU) countries. It contains extensive references to case law, the day-to-day practice of customs authorities and further advice on sound commercial practices.

The book is timely as global levels of counterfeiting and piracy remain high. At stake are not only intellectual property rights, but public health, public order and consumer safety. Customs authorities – once primarily in charge of controlling the circulation of goods and the payment of tariffs – are now at the forefront in the fight against cross-border trade in counterfeit and pirated goods. In order to operate effectively, they need to be backed by strong legislation on border measures and on the follow-up to such measures.

In the EU, the regulatory framework for the enforcement of border measures is contained in the European Community (EC) Regulation 1383/2003, (*Customs Actions Against Goods Suspected of Infringing Intellectual Property Rights*), and the provisions for its implementation in EC Regulation 1891/2004. Their practical application, however, depends upon the national rules and procedures of the Member States. Other rules and procedures under national laws include the Intellectual Property Code or the Customs Code. In this respect, Messrs. Vrins' and Schneider's book is a valuable compendium, which covers the implementation of the EU regime, plus relevant areas of national law, to provide an overview of how the current regime of border measures is applied within the EU.

The book starts with an analysis of the counterfeiting and piracy phenomenon in the EU by Professor Michael Blakeney of Queen Mary, University of London. This is followed by an analysis of the international legal framework – Bern and Paris Conventions, the TRIPS Agreement and WIPO Model Provision – for border measures by Professor Daniel J. Gervais, Vice-Dean of Research University of Ottawa. The two editors then present the Community legal framework. The main body of the work consists of national chapters, written by a practitioner in the field, on the application of border measures in all 25 EU countries.

Jeremy Phillips (Visiting Professorial Fellow, Queen Mary), provides a conclusion emphasizing the confluence of interests between honest traders, consumers, and national governments, whether of the EU or of the countries of origin of the infringing goods.

The weighty volume (some 1,400 pages) is a practical tool for any IP rights holders, lawyers and enforcement authorities involved in cross-border trade with or within the EU, as well as being a reference work for academics and libraries.

The fight against counterfeiting and piracy at the borders – and hence the fight to protect public health, order and security – will only succeed if there is closer collaboration between public authorities and right-holders. The small number of applications for action by customs authorities in the European Union (2,888 in 2004) shows that much remains to be done.

The book is supplemented by a website, [www.BorderMeasures.com](http://www.BorderMeasures.com), to ensure that facts are kept updated.



**Edited by Olivier Vrins and Marius Schneider**  
**Oxford University Press,**  
**2006**  
**ISBN-10: 0-19-928879-8**  
**Price: £175.00**

# NEWS ROUNDUP

## Barcelona Seminar Discusses Broadcasters' Rights



Photo: Rupert Warren, © European Patent Office

**WIPO Deputy Director General Mrs. Rita Hayes and Ambassador Juan March (center), Permanent Representative of Spain, opened the seminar.**

International experts, business leaders, academics and government delegates gathered on June 21 in Barcelona, under the auspices of WIPO, the Catalan Broadcasting Council and the Barcelona Bar Association, to examine current technical, economic and legal realities in the field of broadcasting, and to identify areas for development.

The seminar provided an opportunity for all interested participants to share their views on the possible impact of updating the rights of broadcasting organizations, which were established in the 1961 Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organiza-

tions. The debate was structured in three parts: an analysis of the evolution of business models and technologies involved in broadcasting; an assessment of the position of broadcasters, both as users of IP in the content they transmit (films, music, literary works, etc) and as owners of their specific broadcaster rights; and finally a round table on the proposed WIPO Treaty on the Protection of Broadcasting Organizations, currently under discussion in Geneva. The round table brought together government delegates from Brazil, Colombia, Mexico, Peru, Portugal and an EU Commission representative, in a discussion moderated by the Chair of the WIPO Standing Committee on Copyright and Related Rights, Mr Jukka Liedes, to look at the range of views expressed by Iberoamerican Governments and the European Union.

The event was webcast courtesy of ALFA-REDI, a Latin American NGO devoted to legal analysis of the Internet and the new technologies. Over 200 connections to the webcast were logged with an average duration of over 40 minutes, mostly from Latin America and the U.S.

The meeting benefited from the active support of broadcasting organizations and content owners, including the Association of Commercial Television in Europe (ACT), Association of European Radios (AER), Association of Spanish Commercial Radio (AERC), International Association of Broadcasting (AIR), European Broadcasting Union (EBU) and the Audiovisual Producers Rights Management Organization (EGEDA).

## America's Cup - WIPO Provides Electronic Case Facility for Dispute Resolution



Photo: © Ivo Rovina/Alinghi

**The electronic case facility contributes to the efficient resolution of disputes in the America's Cup, where Jury members and parties can be based in different locations, and time is of the essence.**

WIPO's Arbitration and Mediation Center has created a new customized version of the WIPO Electronic Case Facility (ECAF) to facilitate dispute resolution under the Jury Procedure of the 32<sup>nd</sup> America's Cup (ACJ ECAF). The ACJ ECAF will offer the same facility as the ECAF to submit case communication on a web-based case file and then to alert all parties by e-mail. Parties may view and search the case file at any time from any location.

Under the America's Cup Jury Rules of Procedure, the Jury resolves disputes between competitors and provides guidance in rule interpretation. The ACJ ECAF contributes to the efficient resolution of ACJ disputes, where Jury members and parties can be based in different locations, where each submission in every case must be forwarded to a multitude of actors, and where time is of the essence in reaching results.

The disputes dealt with through the ACJ ECAF do not only relate to intellectual property. Examples so far include a case on the use of logos/advertisement on boats, a case on the interpretation of racing rules, and a case on the interpretation of place of yacht construction. (The decisions are publicly available at [www.acjury.org](http://www.acjury.org).)



## Top Selling Cholesterol Drug Comes Off Patent

The U.S. patent covering Merck's block-buster anti-cholesterol drug, *Zocor*, expired in June. Global sales of *Zocor*, which sells for around \$3 per daily pill in the U.S., generated \$4.4 billion in 2005, making this the most profitable drug ever to be opened to competition from generic drugs manufacturers. The next three years will see a further US\$50 billion worth of drugs going off patent.

Simvastatin, the active ingredient in *Zocor*, is a drug which slows the liver's ability to produce the type of "bad" cholesterol, which can build up in blood vessels and lead to heart attacks or strokes. Some analysts predict that competition from generic manufacturers may bring the price of simvastatin down to as little as 30 cents a pill within a year. This will also impact on *Zocor's* even more successful rival, *Lipitor*, produced by Pfizer. *Lipitor*, which comes off patent in 5 years time, made US\$12 billion in sales – more than any other drug ever invented.



**Over 50 million adults in the U.S. have unhealthy levels of cholesterol in their blood. - A high-profit market for the drugs companies.**

## WIPO Addresses Indigenous Issues at UN Forum

WIPO hosted two events on the sidelines of the 5<sup>th</sup> Session of the UN Permanent Forum on Indigenous Issues held in New York in May:

- a workshop entitled "Can Intellectual Property Serve as a Practical Tool for Protecting Traditional Knowledge and Cultural Expressions for the Advancement of Indigenous Women and Community Development in General?" and
- a briefing session on recent developments at WIPO in relation to traditional knowledge, genetic resources and traditional cultural expressions.

The focus of the workshop was on the key role played by indigenous women in the creation and preservation of traditional knowledge and cultural expressions. Positive feedback from participants confirmed the importance of mainstreaming gender in addressing IP issues in this field. The workshop highlighted WIPO's capacity-building activities among indigenous groups, and demonstrated the wide interest among these groups in learning more about IP and its relationship with the protection of tradition-



**Panelists Christine Louwa of the El Molo Community, Lake Turkana, Marsabit District, Kenya, and Carmen Ramirez of the Wayuu People, Colombia**

al knowledge and cultural expressions. Representatives of indigenous communities in Canada, Colombia and Kenya and of other intergovernmental organizations participated as panelists.

The briefing focused on the draft objectives and principles being discussed by

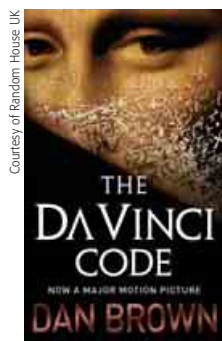
the WIPO Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, the new Voluntary Fund and WIPO's ongoing consultations and studies on IP and customary laws.

# LETTERS AND COMMENT

*WIPO Magazine welcomes letters commenting on issues raised in Magazine articles, or on other developments in the field of intellectual property.*

*Letters should be marked "for publication in the WIPO Magazine" and addressed to The Editor at [WipoMagazine@wipo.int](mailto:WipoMagazine@wipo.int) or to the postal/fax address on the back cover of the Magazine. Please also include your postal address. We regret that it is not possible to publish all the letters we receive. The editor reserves the right to edit, shorten, or publish extracts from letters. The author will be consulted if substantial editing is required.*

## In praise of the Da Vinci Code judgement...



Courtesy of Random House UK

Dr. Suthersanen's article, *Copyright in the Courts: The Da Vinci Code* (June 2006), sets forth in a clear and concise manner the basic copyright law principles that thankfully have not been changed.

As an IP attorney, I became immediately concerned (albeit without possessing the details of the case) that no motion was adjudicated dismissing the case as frivolous or unfounded, and that the courts took the case seriously enough to accept to hear it. From the few facts that were trickling out from the media feeding frenzy I feared that copyright law may be turned on its head. I was greatly

relieved when this turned out not to be the case.

I admit I was astonished at the media coverage generated by this case. But isn't it interesting that both books share a common publisher? That the authors of both *The Holy Blood and The Holy Grail* and *The Da Vinci Code* recently launched new books? Not to mention the Hollywood adaptation. This whole "fiasco" was a publicist's dream. The lawyers' fees for both sides combined are probably much less than any advertisement campaign would have cost them for equal media exposure!

## ...and of WIPO's "star" dispute resolution service

Separately, your April 2006 article, *Resolving IP Disputes Through Mediation and Arbitration*, spotlights one of WIPO's star services. The article summarized nicely – and in language I can show my clients – what services are available to help resolve domain name disputes. I find this sort of article useful to my practice of law.

*From Nathaly J. Vermette, LL.B., LL.M.  
Attorney and Trade-mark Agent  
Montreal, Canada*

## Help us to reap what we sow – a musician's perspective



Photo: Patricia Baier

Like Amadou (*Authors, Composers, Artists: Amadou and Mariam*, January-February 2006), I am a musician trying to live from my music. I personally know IP to be an asset, something that one can physically own, like a trouser, and I know that one is supposed to be able to make a living out of it. But here in Kenya, the public see it as only there for entertainment, and so we have massive IP infringement carried out as if it was legal.

We hope that with your support, and with the support of other relevant organizations and offices of our government, we as musicians and intellectual property owners will be able to reap where we have sowed.

*From Edward Rowa Olang, Musician  
Nairobi, Kenya*

## Zambian journalists against piracy

I read with interest the article on counterfeit (*Recent Challenges for Enforcement of Intellectual Property Rights*, April 2006) and wish to share some of my country's own experience – and a new initiative to involve journalists.

Zambia has not been spared the scourge of piracy and counterfeit. Zambian musicians have suffered the most. One only needs to walk the streets and market places of Lusaka to see how business in pirated music is booming. Pirated audio and video tapes, DVDs, and CDs are offloaded onto the market within minutes of being released. According to Ministry of Information statistics, the Zambian government loses revenue amounting to US\$ 4.3 million every year due to piracy. Many pirated materials are imported while a substantial quantity is reproduced locally in the city's back streets using increasingly sophisticated methods.

An anti-piracy squad comprising state police, Zambia Revenue Authority, local council authority and the immigration department was formed in 2004 to crack down on the scourge, and has confis-

cated materials worth US\$430,000. The customs unit have also confiscated pirated materials at points of entry.

Now, on World Intellectual Property Day Zambia has announced a new initiative, *Journalists against Piracy in Zambia*. The first of its kind in the African continent, the idea arose from the Copyright Office's realization that it could not work in isolation in its efforts to inform the public. Participating journalists from the electronic and print media have received training to enable them to spearhead the dissemination of information to the public on piracy and counterfeit and on their consequences for the economy. The journalists will write investigative stories, exposing piracy and raising public awareness about the dangers of supporting it. They will also be expected to play an advocacy role, fighting for policies to better protect IP rights.

*From Janet Muyawala-Ilunga, Journalist  
Sunday Times of Zambia  
Lusaka, Zambia*



**Pirated CDs and DVDs on sale in downtown Lusaka.**

## Access to essential medicines

Are patents the problem or the solution?

Your article on avian flu drugs (*Avian Flu Drugs: Patent Questions*, April 2006) illustrated some questions in the debate about patents, access to medicines and TRIPS. It should not be forgotten that access to medicines is a means to an end, and not an end in itself. The end is health for all. Important factors that impact on achieving this end include a country's financial means to purchase medicines, adequate distribution, and the ability to supply.

In this last regard, the WTO decision on the implementation of Paragraph 6 of the *Doha Declaration on the TRIPS Agreement and Public Health* plays an important part. The decision clarifies in particular how to alleviate the problems of member countries with insufficient pharmaceutical

manufacturing capacities, i.e. by granting compulsory licenses, or through technology transfer and capacity building in the pharmaceutical sector.

Utilization of the IP system and TRIPS flexibilities is essential in facilitating access to pharmaceutical products to address public health problems. But equally important is the infrastructure necessary to distribute essential medicines and administer health needs. Technical assistance needs to be channeled towards establishing efficient distribution systems. And where production is in the hands of private companies, regulation should be implemented requiring those industries to distribute to the entire populace or contribute towards distribution. Pricing also needs to be addressed, either by regulation or within the terms of the licenses, in order for the importing countries to ensure the lowest possible price.

National legislation – in both importing and exporting countries – is of critical importance to ensure that the benefits of the system can be obtained. Technical assistance given to developing countries with regard to their IP legislation must take all the TRIPS flexibilities into consideration. Finally utilization of the system must aim to achieve the delicate balance between the rights of the patent holders, who need returns from their investment in order to develop new and better medicines, and the needs of the Member States seeking to develop sufficient pharmaceutical manufacturing capacities to meet public health problems.

*From Sonja H. A. Francis, Legal/Trade  
Consultant,  
St. George's, Grenada W. I.*



Copyright: Roche

# WIPO AWARDS: APRIL-JUNE 2006

*WIPO congratulates the following creators and inventors, who were presented with awards in May and June.*

## Youth Challenged to Invent

Careers Scotland in the UK organizes the Global Enterprise Challenge and the Tomorrow's Inventors Challenge each year to encourage invention among young people. A WIPO Gold Medal for Inventors is awarded to the winning teams of both competitions.

Fifteen countries took part in this year's Global Enterprise Challenge, involving about 1000 students from up to 120 schools and colleges. The winners were Team Germany, for their solar-powered mobile phone charger.

The Tomorrow's Inventors Challenge for Scottish pupils in primary schools aims to encourage teamwork, idea generation and invention in a fun and memorable way. A team from Braidbar Primary School won the award for their contribution to the development of the Energy X project, which capitalizes on the climate of the west coast of Scotland, and uses both solar power and rain water as renewable energy sources to provide domestic electricity supply.



Photos: Careers Scotland



## WIPO Gold Medal for Inventors

### BELARUS

■ Valery Suprun – For his outstanding inventions in the field of computer technology and electronics

### FRANCE

■ Eloise Genestal (Best Young Inventor – Concours Lépine, Paris) – For her invention of a board game

### INDIA

■ M.C. Sharma, National Research Development Corporation, New Delhi, and his associates at the Indian Veterinary Research Institute Izatnagar Bareilly – For an area-specific mineral mixture to increase productivity of bovines of Uttaranchal and Uttar Pradesh.

■ Certificates of Merit were also awarded to Chinmay Joshi, N.N. Pathak, and M.P. Yadav.

### POLAND

■ Wieslaw Szelejewski – For a process for manufacturing the Olanzapina® active substance in a new polymorphic form

■ Ewa Ksprzycka – For a new technology for vacuum chromizing

■ Jacek Kijenski – For Gliperol®, a new biofuel for diesel engines

■ Andrzej Kulpa – For a process for utilization of forestrial and wood mill wastes to make a renewable solid fuel and to produce electrical and thermal energy

### GERMANY

■ Katharina Becker, Wolfram Freitag, Martin Kruemmel, Momtschill Valev, Saskia Erben, Laura Mayer, Loraine Keller, Raphael Pierzina and Fritz Dollnick (*Global Enterprise Challenge, Scotland*) – For a portable solar powered battery charger for mobile phone and other everyday electronic equipment (see box).

### SYRIA

■ Amr Al Fakhouri (best young inventor) – For a dictionary for medical purposes

■ Ahmad Omar Tabbab – For a filter for the separation of water from fuel.

### UNITED KINGDOM

■ Calum King, Reiss McLeod, Andrew Milne, Mariyah Ahmed and Katrina Moir of the Braidbar Primary School, Scotland (*Tomorrow's Inventors Challenge, Scotland*) – For their contribution to the development of the Energy X project (see box).

## WIPO Trophy for Innovative Enterprise

### BELARUS

■ V.A. Belyi Metal-Polymer Research Institute (National Academy of Sciences of Belarus) – For the active promotion of its patented inventions and new technologies



## Calendar of Meetings

### SEPTEMBER 25 TO OCTOBER 3 ■ GENEVA

#### ■ *Assemblies of the Member States of WIPO (Forty-second series of meetings)*

Some of the assemblies will meet in extraordinary session, other bodies in ordinary session.

**Invitations:** As members or observers (depending on the assembly), the States members of WIPO and the European Community; as observers, other States and certain organizations.

### NOVEMBER 6 TO 10 ■ GENEVA

#### ■ *Committee of Experts Under the Vienna Agreement Concerning the International Classification of the Figurative Elements of Marks (Fifth session)*

The Committee of Experts will decide on the adoption of proposals for amendments and additions to the current (fifth) edition of the Vienna Classification for incorporation in the new (sixth) edition, which should enter into force on January 1, 2008, and be published in the two authentic versions (English and French).

**Invitations:** As members, the States members of the Vienna Union; as observers, all States members of the Paris Union which are not members of the Committee, and certain organizations.

### NOVEMBER 13 TO 17 ■ GENEVA

#### ■ *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) (Sixteenth session)*

The Committee will work on new issues as identified by the SCT at its Fifteenth session, in particular new types of marks, trademark opposition procedures, the harmonization of formalities concerning the procedures for design registration and the relationship between trademarks and some aspects of copyright law.

**Invitations:** As members, the States members of WIPO and/or the Paris Union; as observers, other States and certain organizations.

### NOVEMBER 15 ■ GENEVA

#### ■ *Seminar on the Hague System of International Registration of Industrial Designs*

This Seminar, in English and French, is aimed at increasing awareness and practical knowledge of the Hague system for the international registration of industrial designs among industry and private practitioners who use, or will use, the system.

**Invitations:** Registration is open to all interested parties subject to the payment of a registration fee. The competent authorities of the States members of the Hague Union will be exempt from the payment of the fee.

### NOVEMBER 16 AND 17 ■ GENEVA

#### ■ *Seminar on the Madrid System of International Registration of Marks*

This Seminar, in English, aims at increasing awareness and practical knowledge of the Madrid system among trademark agents who use, or will use, the system whether in industry or in private practice. These Seminars are held regularly every year, both in English and French.

**Invitations:** Registration is open to interested parties, subject to the payment of a registration fee. The competent authorities of the States members of the Madrid Union will be exempt from the payment of the fee.

# NEW PRODUCTS



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2005: Chinese 274C

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**International Classifications of Goods and (Nice Classification) Ninth edition**

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**International Classifications of Goods and (Nice Classification) Ninth edition**

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**INTERCAMBIAR VALOR**

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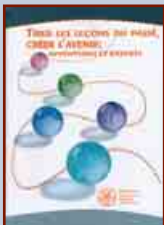
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For more information contact  
**WIPO** at:

**Address:**

34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

**Telephone:**

+41 22 338 91 11

**Fax:**

+41 22 733 54 28

**e-mail:**

wipo.mail@wipo.int

or its New York Coordination  
Office at:

**Address:**

2, United Nations Plaza  
Suite 2525  
New York, N.Y. 10017  
United States of America

**Telephone:**

+1 212 963 6813

**Fax:**

+1 212 963 4801

**e-mail:**

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If you are interested in receiving copies, contact:

Design, Marketing, and Distribution Section  
WIPO

34, chemin des Colombettes

P.O. Box 18

CH-1211 Geneva 20

Switzerland

Fax: +41 22 740 18 12

e-mail: [publications.mail@wipo.int](mailto:publications.mail@wipo.int)

For comments or questions, contact:

**The Editor, WIPO Magazine**

[WipoMagazine@wipo.int](mailto:WipoMagazine@wipo.int)

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