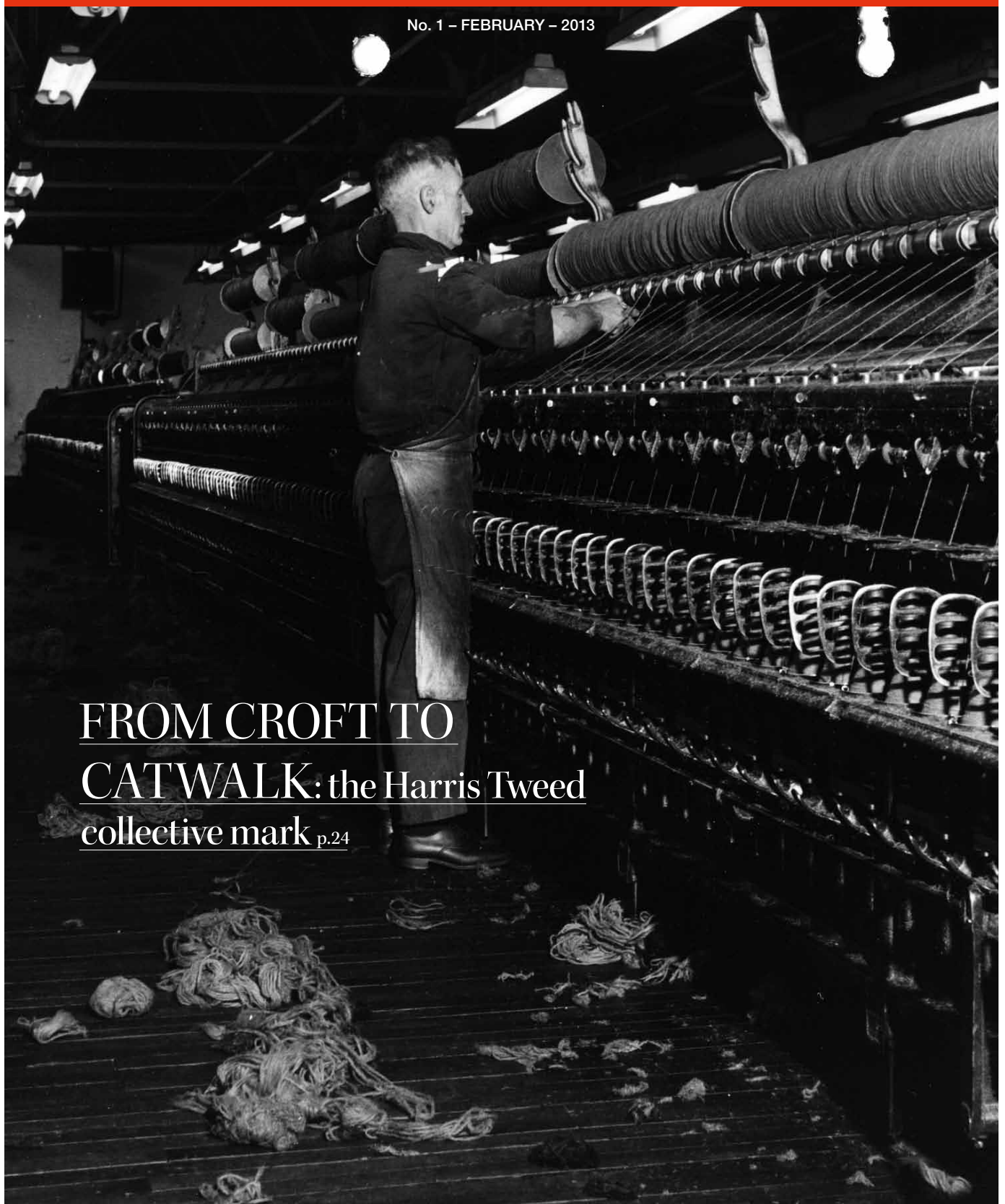


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p.29 **Eun-Joo Min**, Building Respect for IP Division, WIPO
p.31 **Michal Svantner**, Division for certain Countries in Europe and Asia, WIPO

Editor: **Catherine Jewell**
Graphic Designer: **Annick Demierre**
Cover image: **Harris Tweed Authority**

Front cover:
Harris Tweed is handwoven by the islanders
in Scotland's Outer Hebrides.

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100 years of INDIAN CINEMA:

an interview with Bollywood's Anurag Basu

From December 4 to 7, 2012, WIPO hosted a Festival of Indian Film in celebration of 100 years of Indian filmmaking. The release of the black-and-white silent movie, *Raja Harishchandra*, in May 1913 marked the beginning of the country's indigenous film industry. Since then, India has become the world's largest producer of feature films, with over 1,200 releases a year in more than 25 languages. The five films screened during the Festival – *Raja Harishchandra*, *Barfi!*, *Zindagi Na Milegi Dobara*, *36 Chowringhee Lane* and *3 Idiots* – offered a glimpse of the diversity, depth and distinctiveness of Indian cinema. Ahead of the opening of the Film Festival, a first for WIPO, Anurag Basu, the writer and director of *Barfi!* – one of the highest-grossing films in India in 2012 – shared his views about India's thriving film industry and discussed the strengths of Indian filmmaking, the major challenges the industry faces and his most recent film.

How did you get into the film industry?

It was in the early 1990s, when I went to University in Mumbai, that I decided to follow my dream. I always had a hidden desire to be part of the Indian film industry. Hidden because my family thought people from good families didn't go to Indian cinema. It was socially looked down upon. But I wanted to be on a film set, so I lied to my parents, went to an audition and got a small acting role in a typical singing and dancing Bollywood production. I soon realized it is not as glamorous as it looks, and decided I needed a "plan B" in case things didn't work out, so I finished my physics studies. But, fortunately, things did work out for me. I have produced seven movies and written and directed many TV series and commercials.

How would you characterize India's cinema journey?

Cinema has become an integral part of Indian culture; it actually binds the country together. When you watch a film at the cinema you don't see the religion, cast or culture of the person beside you. People sit together and laugh, cry and enjoy. Indian cinema binds them together. That is one of its greatest achievements.

The industry has had its ups and downs, but Indian cinema offers a different kind of entertainment. Though still looked down upon by some, it has its own distinctive character. Bollywood films are a mish-mash genre, a mix of everything. They offer wholesome entertainment, plain and simple.

We have been unaffected by the dominance of Hollywood, unlike other cinema industries. We aren't threatened by Hollywood and don't look at its calendar before releasing our movies. That is the plus side. At present we are catering to the Indian diaspora and, beyond that, we are not well known but want to be recognized more widely because we know we are talented.

There is a ray of hope. This year, Indian filmmakers produced different kinds of films. *Barfi!*'s box office success suggests things are changing. I'm not saying that *Barfi!* is completely different from Bollywood, but it's a step in a new direction and has given me the courage to make a film next year that has global appeal. We have to be in the system to change it. In recent years all Indian film genres have done well, and our films are increasingly respected at international film festivals.

What challenges do Indian filmmakers face?

Making a film in India is tough. Every 200 kilometers the language and culture changes, so you have to make a film for different cultures inside your own country.

Being a film producer or director in India is like being a stray dog crossing a busy highway. We can get run over at any time. There are so many risks but piracy is the biggest challenge, because most Indians don't understand that it is a crime. The day after you release your film in the theatres, pirated copies are available on the market. Piracy affects us a lot and we have to stop it.

The industry loses around INR 18,000 crores (approx. US\$3.34 billion) and some 60,000 jobs every year because of piracy. It's a huge thing. We remain a flourishing industry, but imagine the business movies would do without piracy.

What steps need to be taken to tackle piracy?

People need to understand that piracy is a crime. The government is making progress. It has closed down a lot of downloading channels and all but eliminated pirated CDs in Mumbai where I live.

I think we can kill piracy by releasing the DVD versions of our films a week or so after their theatrical release. The current practice of waiting three or four months before releasing them makes no sense. By releasing the movies to paid satellite channels, we can be sure to earn some money and reduce losses from piracy. Piracy is working because people can



“In the way chicken tikka has become global, I hope that everybody starts enjoying Bollywood.”

buy a DVD for 100 rupees, and a whole family can watch it. We have to offer that kind of entertainment at that price. It has to be as easy to get an original DVD as it is to get a pirated one. That is the only way we are going to fight piracy.

What is the impact of digital technologies?

The downside of digital technology is that movies are available all over the Internet as soon as they are released. But digital technology is helping filmmakers in other ways, because it makes it easier to make movies. Everybody has a camera and an editing tool on their laptop. We will see a lot of new filmmakers and a new lingo emerging over the next decade. This is good for the industry.

Why is copyright important for filmmakers?

Copyright gives filmmakers security. If you know you are creating something that you will make money from and that is going to take care of your future, you will invest in it 100 percent.

As a filmmaker in India, you have to turn out movie after movie, because you don't get any royalties. Writers and filmmakers get paid very little in India; they depend on their production fees. They write a film, release it and it's finished; there are no royalties, so they have to keep writing. That's why the quality of films is low, because filmmakers simply can't afford to devote enough time to refining their work before moving on to their next project.

Now that we have our new Copyright Law (the Copyright Amendment Act 2012), we know that when we create

something we are going to get a return on it. When you know you are going to get royalties, you are going to give your best. You won't run from one script to the next. Now that the new law is in place, I think we will see a lot more original and better quality work coming out of India.

How would you like to see Indian cinema evolve?

I would like to see mainstream audiences around the world start appreciating our cinema. In the way chicken tikka has become global, I hope that everybody starts enjoying Bollywood.

How do you account for the success of Barfi!?

I never expected this type of success. It's very humbling. Many friends told me it was an unsafe film, because it didn't follow a traditional formula. But I always thought it was safe, because it is entertaining and, besides, I wanted to tell this kind of story. It was the third highest-grossing film in India in 2012 and the highest grosser overseas. I think this is a sign that Indian cinema is changing. I have directed many films, but I am most proud of *Barfi!*.

How did the film's storyline come about?

Some years ago I was working with a lot of special kids in workshops and, one day, one of them was visibly very upset. The teachers could do nothing to calm her, but as soon as the caretaker, a deaf and dumb guy, came into the room, she calmed down. The communication between the two of them was fascinating and it stayed with me. I went home that night and wrote a short story about it. Two years later, I decided to develop it into a full screenplay.

From left to right: Scenes from the films: *36 Chowringhee Lane*, *3 Idiots* and *Raja Harishchandra* screened during the Festival of Indian Film at WIPO in December 2012.



Scene from the critically acclaimed Indian coming-of-age comedy-drama *Zindagi Na Milegi Dobara* directed by Zoya Akhtar and produced by Farhan Akhtar and Ritesh Sidhwani.

My previous movie, *Life in the Metro*, did really well and was critically acclaimed, but with *Barfi!* I wanted to introduce a new kind of cinema language to Bollywood. The film, which includes scenes reminiscent of Charlie Chaplin and Buster Keaton, also gave me an opportunity to pay homage to the silent era movies I grew up watching.

The film is very special to me personally. It talks about selfless love and draws on many personal experiences. That's what filmmakers do, they inhale life and exhale cinema.

Are you still learning about cinema?

Yes, you learn from your mistakes and try not to repeat them in your next film. That's how you grow. I am still trying hard to find my voice. With every film I am jumping genre and doing different stuff. I don't have a definite style; all my movies are different. My next movie will be different again. You spend around one and a half years with a film, so it has to be different and new for you to get excited about it. I am passionate about

cinema and about telling my own story in my own way. When you are bitten by the cinema bug you can't do anything else.

I am still educating myself and am watching great cinema from all around the world. I came from a very small town, so my main influences are Indian literature and the films of Satyajit Ray. My parents only allowed me to watch his movies, nothing else. I also look forward to interacting with filmmakers at international film festivals – only those to which my films are invited, of course – to learn about what they are working on and how they are tackling the problems we all face. It is quite motivating. You come away thinking “if they can do it why can't we?”.

Are you a writer or a director first?

I am a writer first and then a director. A writer has to be a convincing liar, and I was a good liar. That's how I started. I write lots of short stories, because you never know when one will trigger an idea for a screenplay.

“It has to be as easy to get an original DVD as it is to get a pirated one. That is the only way we are going to fight piracy.”

As a director, I'm a jack of all trades. Cinema is a collective art form. It takes all my knowledge of music, dance, theatre and acting to be able to direct a movie. But I also think about the Friday box office a lot. You can make a different kind of cinema, but the bottom line is it has to do well at the box office.

What does it take to create a blockbuster?

Entertainment is the key to box office success, especially in India. Whatever the genre, a film has to be entertaining, engaging and moving. It has to make viewers feel something – otherwise there is no point in making it.

What is your favorite film?

It keeps changing; I don't have any all-time favorites. I love watching all kinds of movies, but *Casablanca* is among those I like most. ♦

Indian Film Industry – Facts and Figures

- India is the world's largest producer of films with over 1,200 movies released every year.
- Bollywood, India's Mumbai-based Hindi film industry, produces over 200 films annually. The rest are produced in 25 different regional languages. In addition to Bollywood, India is home to Kollywood (Tamil/Tamil Nadu), Tollywood (Telugu/Andhra Pradesh) and Mollywood (Malayalam/Kerala).
- In 2011, the size of the Indian film industry was estimated to be over INR 90 billion, and with an estimated compound annual growth rate (CAGR) of 10.2 percent, it is expected to reach INR 150 billion by 2016.
- Indian cinema accounts for just 7 percent of global box office revenue.
- Some 1.83 million people are employed in the film industry in India.



Photos: Courtesy film producers and NFA, arranged by Directorate of Film Festivals, Ministry of Information and Broadcasting, Government of India

Written and directed by Anurag Basu, *Barfi!* was one of the highest-grossing films in India in 2012.

THE INDIAN FILM INDUSTRY – SOME MILESTONES

- 1913 *Raja Harishchandra*, produced and directed by Dadasaheb Phalke, marked the birth of India's indigenous film industry.
- 1931 *Alam Ara* ("The Light of the World"), produced by pioneering director Ardeshir Irani, the first feature-length Indian talkie opens in Mumbai. Talkies also debuted in other languages: Tamil (*Kalidass*), Bengali (*Jarnai Sashti*) and Telugu (*Bhakta Prahlada*).
- 1935 First use of playback singers to provide the musical voices of Bollywood actors in Nitin Bose's *Dhoop Chhaon*. This technique is still widely used in Indian cinema. Music, a hallmark of Indian cinema, is a major source of film revenue.
- 1937 Screening of India's first color film, *Kisan Kanya*, produced by Ardeshir Irani. Directors Vishnupant Govind Damle and Sheikh Fattelal win an award for *Sant Tukaram* at the Venice Film Festival.
- Late 1940s to 1960s – Golden Age of Indian Cinema**
- 1946 *Neecha Nagar* by Ghetan Anand awarded best film at the first Cannes Film Festival
- 1947 Gyan Mukherjee's 1943 film, *Kismet*, becomes the longest-running film in Kolkata, where it plays in the same theatre for three and a half years.
- 1955 Satyajit Ray's classic *Pather Panchali* released. The film wins the National Film Award for Best Film and the Best Human Documentary Award at the Cannes Film Festival.
- 1957 Copyright Act (Act No. 14 of 1957) consolidates and amends Indian copyright law and provides for the setting up of a copyright office, under the control of the Registrar of Copyright and the Copyright Board, to deal with copyright-related disputes.
- 1958 Mehboob Khan's epic film *Mother India* released and is India's first nomination at the Academy Awards for Best Foreign Language Film
- 1960 The Film Institute of India is established. Satyajit Ray wins the *Grand Prix* at the Melbourne Film Festival for *Two Daughters*, and his film, *The World of Apu*, is chosen as best film by the National Board of Review of Motion Pictures in the US.
- 1962 Merchant-Ivory productions – a collaboration between Indian Ismail Merchant and American director James Ivory – is launched.

1963 The Indian Motion Picture Export Corporation (IMPEC) is established by the Indian Government to promote the expansion of Indian cinema.

1964 The National Film Archive of India is established. Satyajit Ray wins Best Director for *Mahanagar* as well as the Best Director award at the Berlin Film Festival for *Charulata*.

1970s – Rise of commercial cinema

Fourteen distinct cinema cultures emerge in India, of which Bollywood (Hindi) is only one. Indian cinema's popularity grows internationally thanks largely to a significant expatriate community, and its international influence continues to grow.

1982 Fashion designer Bhanu Athaiya becomes first Indian to win an Oscar – the Best Costume Design Award – for the film *Gandhi*.

1987 India's first sci-fi film, Shekhar Kapoor's *Mr. India*, released.

1988 Mira Nair's *Salaam Bombay!* wins *Camera d'Or* at the Cannes Film Festival and is nominated for the Academy Award for Best Foreign Language Film.

1992 Satyajit Ray receives honorary Oscar – the Lifetime Achievement Award.

1995 Aditya Chopra's directorial debut, *Dilwale Dulhania Le Jayenge*, breaks all records and becomes an all-time blockbuster.

1998 The critically acclaimed art house film *Satya* written by Anurag Kashyap and directed by Ram Gopal Varma marks the emergence of "Mumbai noir," a genre of urban films reflecting on social problems in Mumbai.

2000 to present

2000s Growth in global popularity of Bollywood films takes Indian cinema to new heights in terms of quality, cinematography, innovative story lines and technical advances in special effects and animation, etc.

2001 The Government of India gives the motion picture sector industry status, making it easier for film producers to obtain institutional financing.

2012 Copyright (Amendment) Act 2012 extends copyright protection to performers, songwriters, composers and musicians.

THE SKY IS NOT FALLING: Navigating the smartphone patent thicket

By: **Jeffrey I. D. Lewis**, President of the American Intellectual Property Law Association (AIPLA) and patent litigation partner at Patterson Belknap Webb & Tyler LLP (New York); and **Ryan M. Mott**, associate, Patterson Belknap Webb & Tyler LLP (New York)

You pick up your smartphone with its curved sides (US Patent No. D618,677), swipe your finger across the screen to unlock it (US Patent No. 8,046,721), check email that was “pushed” to the phone without a request to the server (US Patent No. 6,272,333), and type a text message using only a few touches as the phone automatically completes each word you start to spell (US Patent No. 8,074,172). Guess what? You may be accused of violating these patents or dozens more by using inventions without a valid license. This can occur whether you are using an iPhone, an Android-type device, some other smartphone, or even a yet-to-be-named technology.

If you have been following the news, then you know that there is not a single smartphone in the world that has not been accused of patent infringement. People are concerned. But, fear not. These smartphone wars are part of a cyclical technology event that should not be over-blown.

THE SMARTPHONE WARS

Most of us have been kept out of the smartphone patent fire-fight, at least when it comes to our personal day-to-day use. But to the parties involved, there is a war going on – with patent infringement accusations being fired regularly at Apple, Samsung, Google, Research in Motion, Microsoft, Nokia, Motorola, HTC and others. Where there are accusations of infringement, there are lawsuits.

Some of the warring parties have taken it quite personally. For example, Apple’s late founder Steve Jobs was widely quoted as having said that one HTC smartphone model was “grand theft” of Apple’s patented features, including multi-screen touches, the use of various alphabets when sending messages, and the infamous swipe-to-unlock feature: “I will spend every penny of Apple’s \$40 billion in the bank, to right this wrong. I’m going to destroy Android, because it’s a stolen product. I’m willing to go thermonuclear war on this,” Mr. Jobs said.

Of course, a smartphone isn’t just a simple, isolated swipe-to-unlock feature, it is a combination of technological components. Anyone who contributed a component, or at least has a patent on a component, is vying for a piece of the huge smartphone market by suing anyone who has a smartphone product.

Each patent holder owns an exclusive right to one or many small features of the smartphone, and can therefore try to prevent others from manufacturing the smartphone as a whole. As the numbers of players and patented features increase, the transaction costs of assembling a “completely licensed” smartphone become burdensome, because the manufacturer has to deal separately with the owner of each feature or patented component. Figure 1 offers a visual representation of just the lawsuits associated with smartphone patents, ignoring for instance the various publicly-disclosed license agreements and other arrangements.

A PATENT THICKET

In the patent world, we sometimes refer to a “patent thicket.” Figure 1 looks very much like a “thicket,” in other words, a dense grouping of brush or branches.

The branching and overlapping intellectual property rights associated with smartphones have critics claiming that the patent system does not work and is not appropriate for modern times. They say innovation is hindered – and even blocked – by so many patents. History, however, does not support this assertion.

As the 19th century Spanish philosopher and writer, George Santayana, wrote, “those who cannot remember the past are condemned to repeat it.” This quotation is particularly apposite for those who point to the smart phone wars as evidence that the patent sky is falling.

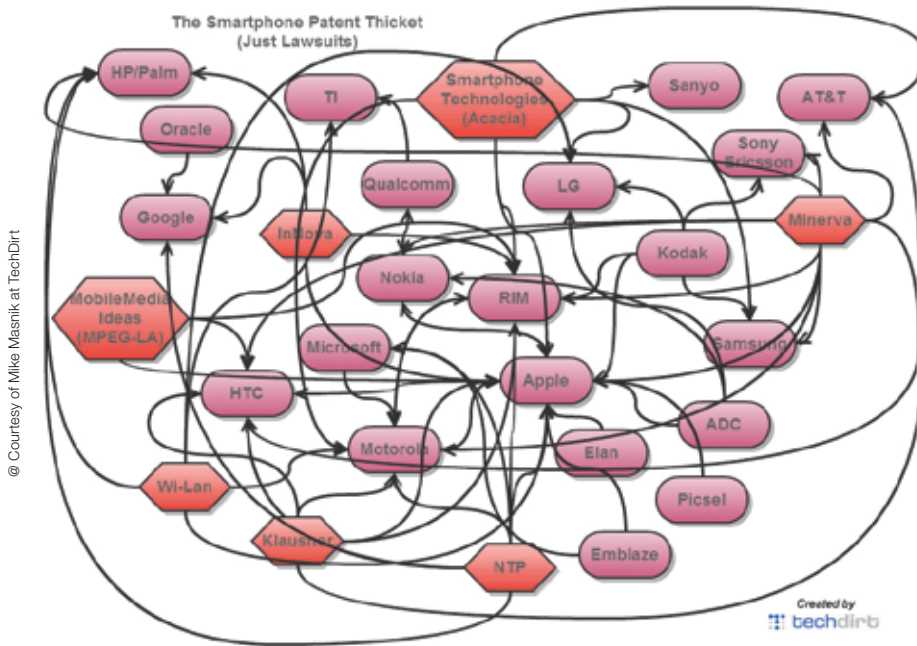


Figure 1. Parties currently involved in lawsuits in the patent thicket.

AN HISTORICAL VIEW

The good news is that the patent sky is not falling. This is not the first patent thicket, and it is not the first time that people have been concerned that a thicket is choking off technology. With time, thickets are cleared either by patent-based cooperation (licensing) or competition (lawsuits). Either way innovation continues. Smartphones will still be marketed (until the next new thing appears) and progress will continue unimpeded.

There are a number of historical instances in which patent thickets emerged and then dissipated as innovation continued. This was the case, for example, with the airplane, radio and crop-planting (harrow) industries as well as MPEG/DVDs. A quick look at the patent thicket that brought about the 19th century “Sewing Machine War” as researched by Adam Mossoff in *The Rise and Fall of the First American Patent Thicket: The Sewing Machine War of the 1850s* (53 ARIZ. LAW. REV. 165, 171 (2009)) demonstrates that there is no reason to overreact about smartphones.

At the beginning of 2013, we might not consider the humble sewing machine to be sufficiently high-tech to create a patent thicket, but in the 19th century the sewing machine was as revolutionary as a smartphone or a high-tech drug is today. It took several inventors nearly a decade to create the sewing machine.

SEWING MACHINES WARS

Some of the key players in the development of sewing machine technology were:

- Elias Howe, Jr., who invented an eye-pointed needle that created a lock-stitch in combination with a second thread carried by a shuttle (US Patent No. 4,750);
- John Bachelder, who added a horizontal table for holding the cloth, a reciprocating eye-pointed needle, and a feeding mechanism for moving the cloth through the sewing machine (US Patent No. RE188);



@ Andrea Zanchi

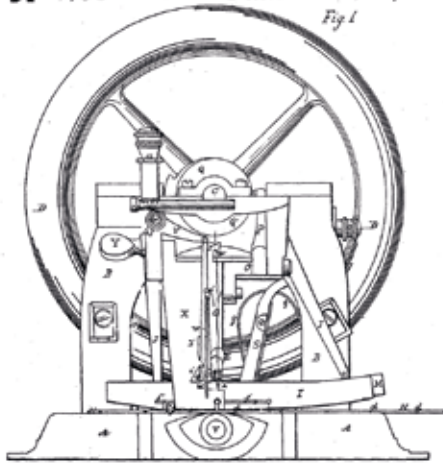


Photos: istockphoto @ Tomml

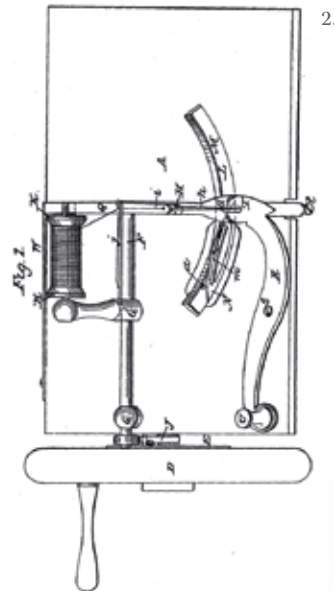
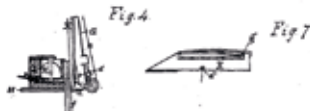
In the 19th century the sewing machine was as revolutionary as a smartphone is today and was at the center of a legal storm similar to the on-going smartphone patent firefight.

Sheet 1
35 Sheets

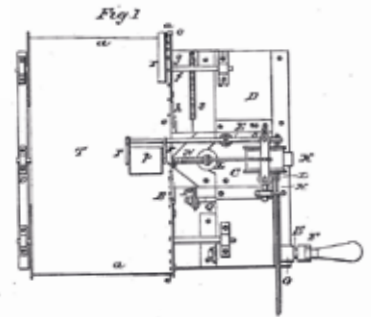
E. Howe, Jr.
Sewing Machine.
No. 4750 Patented Sep. 10, 1846.
Fig 1



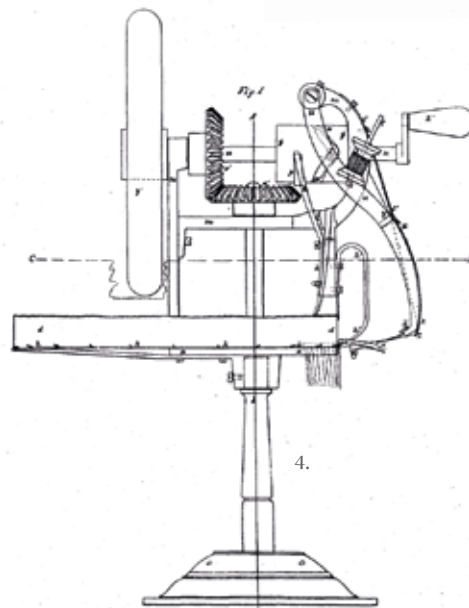
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- Sherburne C. Blodgett, who invented a revolving shuttle that carried the second thread to create a lock-stitch (US Patent No. 7,776); and
- Allen B. Wilson, who made a lighter and easier-to-use sewing machine for the home (US Patent No. 6,439), as opposed to the already-developed industrial machines.

The person with the marketing advantage, however, was Isaac Merritt Singer, who combined the previously-developed elements and added features such as control pedals.

As a result, Mr. Singer created and manufactured (US Patent No. 8,294) the successful Singer Sewing Machine. But as soon as his company turned a profit, he was sued by Elias Howe (a non-practicing entity (NPE) of his day – i.e. an entity that owns patent rights but does not manufacture the patented product or perform the patented method) who demanded a US\$2,000 royalty payment. Mr. Singer responded by threatening to kick him down the stairs. “Howe is a perfect humbug,” Mr. Singer said, “He knows quite well he never invented anything of value.” (While he didn’t use the same words, Mr. Singer was expressing a sentiment very similar to that expressed by Steve Jobs some 150 years later.)

Messrs. Singer and Howe eventually settled for a royalty. In fact, Mr. Howe also granted licenses to other sewing machine manufacturers and went on to earn more than US\$2 million in royalties (almost \$30 million in today’s dollars). Mr. Singer’s company, on the other hand, soon found itself defending more than 20 separate lawsuits filed in four different locations by numerous patent owners. In addition, it also filed its own

1. Howe Sewing Machine, US Patent No. 4,750
2. Bachelder Sewing Machine, US Patent No. RE188
3. Wilson Sewing Machine, US Patent No. 6,439
4. Blodgett Sewing Machine, US Patent No. 7,776

lawsuits against competitors. Each litigant claimed the right to one or more patented features of the marketed sewing machine, but none could assert patent claims to the whole thing. In other words, a patent thicket had emerged.

In a day before typewriters, let alone high-speed printers, over 30,000 pages of printed testimony were taken in the multiple suits. The financial burden of this litigation caused some to question whether the sewing machine could succeed as a commercial product, and one modern historian comments that at the time “the continuing court litigation over rival [sewing machine] patent rights seemed destined to ruin the economies of the new industry.”

PATENT POOL

On the eve of an important trial that was to turn the tide of the sewing machine war, attorney Orlando B. Potter had a revolutionary idea. He recommended that the sewing machine companies pool all their patent rights and license them as part of a commercial trust. The trust, called the Sewing Machine Combination, fostered cross-licensing between the competitors and created a patent pool that could issue licenses or bring suits. By putting aside their differences and pooling their respective patent rights, the competitors overcame the patent thicket problem. This, however, did not occur right away, but only after the parties had exhausted their will to fight and huge costs had been incurred.

Throughout these litigations the sky did not fall and the sewing machine industry did not collapse. No one with the benefit of history would assert that the rise of inexpensive, sewn clothing or the expansive use of sewing machines was thwarted by the litigations pitting the patents of Messrs. Howe, Bachelder, Blodgett, Wilson, and Singer against each other and against the various companies attempting to launch these machines. This is an appropriate framework to consider the present smartphone wars.

POSSIBLE PATENT WARS OF THE FUTURE

No one can dispute that the current smartphone patent thicket is a mess of patents and lawsuits. It involves more parties, more patents, more money, and more consumers than ever before. Although more patents are involved in smartphones than in sewing machines, the current wave of lawsuits does not appear to have prevented smartphones from flourishing any more than the manufacture of sewing machines was affected by the legal strife centered on it in the 19th century.

Some have used the smartphone wars to claim that the patents in suit are generally invalid or are for insignificant advances, but a recent US Patent and Trademark Office (USPTO) study has shown that this is not the case. USPTO Director David Kappos noted in November 2012 that an internal USPTO study showed that courts have ruled that more than 80 percent of the patents

granted on smartphones are valid. This, he concluded, is a positive sign demonstrating that the patent system is wired for innovation and that the smartphone patent developments are “both natural and reasonable.”

Final resolution of the smartphone thicket may seem far away. It may also be the case that, in the future, we will confront new thickets in the fields of biotechnology, nanotechnology, social networking, digital rights management (DRM), radio frequency identification (RFID), and even Alzheimer’s treatments. Thickets appear to occur each time there is a major technological advance and would seem to be an inevitable part of reaching marketplace equilibrium.

“Patent thickets should not be viewed as a block on innovation but rather a milestone of progress and a natural part of the evolution of a complex, marketable and successful product.”

As for smartphones, no one can predict when the litigations will subside or if that is a condition required for advancement. A recent roundtable discussion at the International Telecommunication Union (ITU) in Geneva, however, suggests that a truce may well be a possibility. Just over a month after the roundtable, Apple and HTC settled their patent disputes, apparently putting an end to their “thermonuclear war” (as Steve Jobs called it).

Regardless of what happens with smartphones, history has shown that an invention typically is not made from a single “flash of genius,” but from an assembly of incremental innovative developments. Patent thickets should not be viewed as a block on innovation but rather a milestone of progress and a natural part of the evolution of a complex, marketable and successful product. The current smartphone patent thicket is no different. Ultimately, the issues will be resolved, and in the meantime technology will continue to advance and the sky will not fall. ♦

ART GOES DIGITAL:

Japan's teamLab breaks new ground

by *Jonah Asher,*
WIPO Japan Office



Photo: teamLab+Hanger teamLab, 2010 - Interactive Hanger

Close-up of teamLab's 40-meter-long digital mural at the entrance of the TOKYO SKYTREE.

Art is going digital. As the boundaries between technology and art become increasingly blurred, Japanese company teamLab is breaking new ground and setting new trends in digital artistic expression. The company's stunning 40-meter digital mural welcoming visitors to the world's tallest structure, the 634-meter high TOKYO SKYTREE (above), is testimony to its trailblazing credentials. Jonah Asher from the WIPO Japan Office visited teamLab's offices to find out more about the company and its work.

Founded in late 2001 by Toshiyuki Inoko, teamLab brings together some 300 self-described "ultra-technologists" from a variety of technical and creative backgrounds. The company's four-storey offices in the heart of Tokyo are the source,

arguably, of some of Japan's hottest trends and most creative artistic works.

teamLab's futuristic digital art installations fuse art and technology, offering viewers a unique and enthralling visual experience. With some 30 projects on the go at any one time, the creative range of the company's activities is as varied as it is exotic – encompassing animation, sound, performance, the Internet, fashion and design.

A NEW HIGH-TECH REALITY

When I visited teamLab's offices to meet the company's founder, Toshiyuki Inoko, and his colleagues, I came face to face with an exciting, new high-tech reality. A large, colorful flat-screen





display running on teamLab's proprietary software, Face Touch, presents images and details of company employees. I selected the picture of my contact, Ms. Yukari Mori, and with a few swipes I was connected to her via a live video feed. Moments later, she greeted me in person and led me into a bustling space brimming with creativity, technology and edgy design.

HOW IT ALL BEGAN

In the mid 1990s when Toshiyuki Inoko was studying engineering at the University of Tokyo, he recognized that the future would be digital. While, at the time, the focus was on developing the technology itself, Mr. Inoko began thinking about how digital art and technology could be integrated to form new cultural assets. These ideas took concrete form a few years later when, at graduate school, he started bringing his friends together on a regular basis to exchange creative ideas. Although setting up a business was not a primary consideration at that time, these gatherings were the seedbed of what later became teamLab.

Since its establishment in March 2001, teamLab has been at the cutting edge of the digital art industry, working with galleries, art festivals and other partners from around the world to create a range of captivating works.

AN OPEN AND COLLABORATIVE APPROACH

"When we start a new project we have an overall idea of what we want to achieve," explains Mr. Inoko. "At the same time, we challenge each other with questions about the project until we can't come up with an answer. This forces us to think about things in a new way and can lead to something very different from what was originally envisioned."

This, Mr. Inoko explains, is what happened with the TOKYO SKYTREE project. It began as a simple request for digital signage but evolved into a striking and colorful digital mural spanning 40 meters – a fitting precursor to the breathtaking views visitors would witness from the tower's viewing platforms.

ECHOES OF TRADITIONAL JAPANESE ART

Inspired by traditional Japanese artistic styles, the mural skillfully fuses hand-drawn illustrations with digital media to create a captivating bird's-eye view of Tokyo, past and present, in all its depth and complexity. The work has the scale of Godzilla and the detail of the Sistine Chapel.

The mural draws on three traditional Japanese artistic styles:

- *ukiyo-e* – a type of wood block painting popular from the 17th to the 20th centuries;
- *rakuchurakugaizu* – a genre of screen painting that captures detailed views of life in Japan's former capital, Kyoto; and
- *edozubyoubu* – a folding screen depicting scenes of Tokyo, formerly known as *Edo*

The influence of *ukiyo-e* techniques is visible throughout the mural, from the people crowding the streets to the trains, buses, cars and boats making their way through the city. "There are historical and contemporary themes woven into the mural," explains Adam Booth, teamLab's Chief Art Director. "We had the idea of a *ukiyo-e* kind of visual, and using digital technologies we are simply making a modern version of it."

To give the mural depth and a sense of space, teamLab's creators layered the various details – people, buildings, vehicles, trees, parks, shrines, temples and so on – using traditional *edozubyoubu* techniques. Each layer depicts, in impressive detail, Tokyo's major landmarks, from the serenity of Mount Fuji to the dynamism of the fashionable Shibuya district.

"It's a tradition in Japanese painting to have a bird's-eye view," explains Mr. Booth. "We wanted to create a visual that has so much in it that you can't take it in all at once. That was the idea behind using technology, because you can create something that would take dozens of people many years to achieve."



Wide-lens shot of teamLab's 40-meter-long digital mural fuses hand-drawn illustrations with digital media to create a captivating bird's-eye view of Tokyo.

The teamLabHanger makes shopping a more interactive experience. When clothes are lifted from the rack by a customer, a signal is sent to a nearby screen which displays the various views of the garment.

"Our understanding of space, our sense of spatial awareness, is very different from western cultures," explains Mr. Inoko. "People from outside Japan might think we are looking at the world as a set of layers, but the people and artists of old Japan saw these layers as a logical expression of the world around them. In traditional Japanese art, there is no central perspective. The world is viewed from its side. As viewers move alongside the work of art, they drift into the world evoked in the work and see it from inside out. In developing the TOKYO SKYTREE mural, we built on this idea to create something larger and digital, something that is visually captivating."

By incorporating these traditional themes into the mural using modern technology, teamLab's creators have crafted a detailed, colorful and unique interpretation of Tokyo – at once static and alive.

THE MAKING OF THE MURAL

Bringing this extraordinary mural to life was no mean feat. A team of 16 artists and animators worked for 2 years to capture the intricate details of city life in this seamless, multilayered work.

teamLab's creators began by taking detailed photos from countless street corners to capture the diversity and color of Tokyo's cityscape. Using these images, they recreated the city with detailed hand drawings, one section at a time, using maps for maximum accuracy. The result is a unique panoramic view of Tokyo, that captures the detail, color and complexity of the city's life.

Emoticons, extremely popular in Japan, and other visual quirks such as a twisted building, a Samurai warrior or the giant leg of a mythical monster, are scattered throughout the mural to surprise and enchant spectators.

One of the most challenging aspects of the project was the need to merge the mural's static panels with its animated scenes. "It was all drawn by hand in pencil. Each of the pencil lines is only about one pixel. Matching up the lines seamlessly so that the road continues (from the monitor) onto the printed area required a great deal of precision. If one was slightly out of kilter, the whole mural would have been ruined," explains Mr. Booth. "I don't know if anyone has ever quite done that before."

THE INTELLECTUAL PROPERTY DIMENSION

Like many of teamLab's other creations, "as an original work of art, the mural is protected under copyright law," notes Kenko Mizumoto of teamLab's Catalyst Division. "We want to share our mural with the rest of the world, so we entered into licensing agreements with various companies to make souvenirs of the mural, and these are already on sale."

Intellectual property (IP) is an important aspect of teamLab's business strategy. IP protects much of the company's diverse and eclectic portfolio of digital creations. As the holder of IP rights in its works, teamLab leverages the commercial value of its creativity through licensing deals, which are an important source of income. "Copyright is a good thing. It makes it possible for us to share our original works and, at the same time, to safeguard the company's commercial success," explains Daisuke Sakai, Director and co-founder of teamLab.

"Images need to be reused. In a way, that is advertising too," notes Mr. Booth. "I think art should be an ongoing thing that people can use to make something else," he says, "but, of course, it's not right if somebody gets hold of a high-definition print created by someone else and claims it as their own."

"Copyright licensing agreements are a key to commercial success," says Mr. Inoko, "especially when you are operating in an industry based on things that are virtual."

teamLab's IP portfolio extends beyond the copyright it holds in its digital works and proprietary software. The company also holds a number of patents for innovations such as the teamLabBall and equipment to graphically display information from multiple sources at the same time in a single location. It also holds a patent on an imaging device (marketed at the Distance Camera) to digitally measure distance which is the subject of an international application under WIPO's Patent Cooperation Treaty (PCT/JP2011/069316). The company also has a number of other pending patent applications, including for the teamLabHanger.

While Mr. Inoko believes "patents are a good thing" in that they offer some sort of "judicial recourse," the costs associated with obtaining and enforcing a patent are very expensive and a source of concern for a small outfit like teamLab.

AT THE EDGE OF CREATIVITY

The fascinating range of teamLab's intriguing creations offers a glimpse of the new forms of artistic expression that can emerge in the information age and shows "how new interest and value can be created using ingenious design and technical applications," notes Mr. Inoko.

"I believe that anybody in any culture has amazing potential to go beyond their limits," Mr. Inoko says. "If we can use the digital age to expand and highlight the strengths of our culture and turn it into a new experience or expression, I believe that is something very special." With this creative vision and ambition at teamLab's core, the possibilities are endless. ♦

A group of five children, three girls and two boys, are sitting outdoors in a natural setting. They are all smiling and looking towards the camera. They are wearing traditional Indian clothing, including colorful saris and dresses, and headscarves. The background shows some green plants and dry ground.

CATALYZING RESEARCH

into neglected
tropical diseases

By **Catherine Jewell**,
Communications Division, WIPO

The WIPO Re:Search initiative is an open innovation platform that seeks to catalyze research into the development of diagnostic tools, vaccines and drugs to treat neglected tropical diseases (NTDs), malaria and tuberculosis (TB). Since its launch in October 2011, WIPO Re:Search has more than doubled its membership and secured 11 research agreements, with many more in the pipeline. In this article, WIPO Magazine hears from WIPO Re:Search partners about why the initiative is creating such interest.

DIMENSIONS OF THE CHALLENGE

NTDs, malaria and TB are complex diseases that impact millions of the world's most disadvantaged people. A lack of market-driven innovation, resulting from poor patient purchasing power, has thwarted efforts to develop safer, more effective treatments for these diseases. WIPO Re:Search, a voluntary consortium led by WIPO in collaboration with BIO Ventures for Global Health (BVGH), brings together leading pharmaceutical companies, research institutes and academia to speed up research and development (R&D) into more effective therapies to treat these diseases.

Through WIPO Re:Search, members share their valuable intellectual property (IP) know-how and knowledge with the global health community to support NTD R&D programs, under minimal licensing terms. "In order to share research, data and developments, enterprises need a secure framework within which that sharing can take place. The IP system provides that framework and assists in the development of multiple collaborations across industry, universities and research institutes," notes WIPO Director General Francis Gurry.

KEY DRIVERS

With 11 research collaboration agreements already in place and several others in view, the prospects for making a real difference in treating these diseases are promising. BVGH, which administers WIPO Re:Search's Partnership Hub, plays a key role in identifying partnership opportunities, matching available assets with research needs and connecting potential partners. "Our role is to provide a framework for industry participation that fits with their priorities as a business," explains BVGH President Jennifer Dent. "In any other environment, it would be extremely difficult to engage private industry in investing in research for products to prevent or treat these diseases, simply because they are not commercially attractive."

Neglected tropical diseases (NTDs), malaria and tuberculosis (TB) impact millions of the world's most disadvantaged people. A lack of market-driven innovation has thwarted efforts to develop safer, more effective treatments for these diseases.



WIPO Re:Search has three components:

- A fully searchable global database containing information about available IP assets, information and resources (www.wipoReSearch.org);
- A Partnership Hub to identify and foster meaningful partnership opportunities;
- Support services to facilitate licensing negotiation and identify research needs, as well as funding opportunities with technical advice provided by the World Health Organization (WHO).



Photo: istockphoto @ emre ogan

As growth rates of traditional pharmaceutical markets in North America and Europe stall, pharmaceutical companies are looking to expand into developing markets with higher growth potential. “This provides us with an opportunity to engage companies in social initiatives like WIPO Re:Search. These companies want to move into these markets with a head-start in building consumer confidence as a trusted partner,” Ms. Dent observes. “WIPO Re:Search provides them with an easy platform and a managed opportunity to participate.”

THE IP ANGLE

WIPO Re:Search makes it possible for companies to share their IP assets for non-commercial research purposes while protecting their commercial interests. “AstraZeneca, like other pharmaceutical companies, has large quantities of assets that we are not currently commercially exploiting,” explains Kevin Pritchard, Science Policy Enablement Lead at AstraZeneca.

“We have understood how valuable these are to external researchers, and we make them available to good quality projects under appropriate agreements. The WIPO Re:Search guiding principles give us a sound basis for doing that.”

AstraZeneca has made its entire patent portfolio accessible via WIPO Re:Search. “While much of our IP relates to materials which we want to commercialize, other material may not be currently under development. We are, however, constantly reviewing past projects and looking to revisit assets. Through these partnerships we need to retain a degree of control so that we know that we can continue to use these assets for commercial purposes if we wish, while giving others the freedom to work on them for non-commercial purposes,” says Dr. Pritchard.

RE-PURPOSING IP ASSETS

WIPO Re:Search creates an opportunity to repurpose IP assets. Many of the compounds and associated research made available through the platform might not have been screened for use in treating NTDs, malaria and TB, and may offer solutions that can advance scientists’ work on these diseases.

Partnerships are absolutely crucial to moving this field forward and spreading the cost of non-commercial research is essential,” Dr. Pritchard stresses. “WIPO Re:Search is a way in which we can use our IP and our general pharmaceutical skills to support the development of new medicines for NTDs – even though they would not become part of our commercial pipeline. That, for us, is a strong motivator.”

ROYALTY-FREE LICENSING

Under the WIPO Re:Search Guiding Principles (a standard blueprint for licensing IP assets that helps reduce transaction costs) members agree to make IP assets and know-how available to qualified researchers of NTDs, malaria and TB with no licensing fee and on a royalty-free basis. Any products resulting from this research will also be royalty-free for sales in least developed countries. “The flexibility of this approach has great scope for enabling multiple types of fruitful partnerships,” notes Dr. Pritchard.

AN ALL-ROUND WIN

“WIPO Re:Search is a win-win for everybody,” declares Dr. Dennis Liotta, Professor of Chemistry at Emory University, author of multiple patents and inventor of two frontline HIV/AIDS drugs. It’s a win for global health in that the partnerships that it creates promise to accelerate research in these disease areas. “With these partnering opportunities come efficiencies in moving potential drugs, vaccines or diagnostics forward,” he notes.

From an industry perspective it’s a win, because it offers an opportunity to develop in-house expertise around NTDs,



malaria and TB which, as the geography of disease evolves, may one day become commercially interesting. “Commercial opportunities around some of the NTDs will remain poor, but several of them may well become commercially viable, as diseases such as dengue, which we thought were localized in developing countries become endemic in developed countries,” suggests Dr. Liotta.

“Companies that participate in WIPO Re:Search can position themselves to take advantage of those opportunities as they will have access to the scientific know-how to develop therapies in these areas,” he explains. Irrespective of any eventual commercial advantage, participation in WIPO Re:Search offers a number of indirect reputational benefits in terms of business and scientific excellence. It is also “extremely motivational” for participating industry scientists “who feel they can make a direct personal difference,” Dr. Pritchard notes.

WIPO Re:Search is also a win for researchers. “There is some great science to be done here,” Dr. Liotta explains. “Researchers can often only take their NTD research so far, and then it dies because there is no way to go forward. But if you have high-quality international partners to work with then, suddenly, what looked like a limited opportunity starts to become attractive.”

The partnering opportunities fostered by WIPO Re:Search are taking NTD research to new levels thanks to the invaluable in-kind support provided by pharmaceutical companies. “Literally, no amount of money could get you access to these resources unless [pharmaceutical companies] were your partner,” says Dr. Liotta. “While academic institutions are fabulous places for doing discovery research, pharmaceutical companies really bring something special to the table when it comes to drug development,” he explains.

“These days in science, no one person or research group has sufficient expertise to do it all. If you want to do big things that are going to positively affect the health of the public, you had better find some good partners,” he said. In terms of catalyzing partnerships, WIPO Re:Search is unique. “I don’t see anyone else doing it on as comprehensive a scale as WIPO Re:Search,” Dr. Liotta notes.

OPPORTUNITIES FOR SKILLS EXCHANGE

WIPO Re:Search also offers interesting capacity-building opportunities. “WIPO Re:Search is an incredible opportunity for skills exchange, knowledge transfer and sharing and networking in a globalized world,” notes Dr. Ellis Owusu-Dabo, Scientific Director of the Kumasi Center for Collaborative Research (KCCR) in Tropical Medicine at Kwame Nkrumah University in Ghana. Facilitated access to a global network of scientists will help “avoid the over-duplication that we see all over the place,” he says.

KCCR, a center for the development of cheap diagnostic tools at the point of care for rural communities in Ghana, joined WIPO Re:Search in April 2012 and has already established three collaboration agreements via the platform. “Joining WIPO Re:Search has presented some incredible opportunities to showcase what we can do to a larger forum, and to enhance the capacities of our young scientists,” Dr. Owusu-Dabo notes. In January 2013, one of KCCR’s young scientists will be hosted by the University of San Francisco and funded by the Australian Government to advance his work on soil transmitted helminths (parasitic worms). KCCR has also sealed agreements with PATH (www.path.org) and Stanford University to develop cheap diagnostic tools for

“WIPO Re:Search is a win-win for everybody.”

Dennis Liotta, Professor of Chemistry,
Emory University.

onchocerciasis and schistosomiasis, respectively. “While every institution has its own focus, I would urge research institutions, especially younger institutions, to get on board to explore the opportunities,” Dr. Owusu-Dabo says.

The training courses and support services available under WIPO Re:Search, especially in IP negotiation and licensing, are also helping improve the capacity of researchers to better understand and more effectively use IP to leverage their research strengths. This is a key benefit for Dr. Owusu-Dabo, for whom IP awareness is a priority. “Demystifying intellectual property among African scientists is extremely important,” he notes. “We need to present IP as something that can benefit science and humanity and that can support scientists in achieving their research goals.”

BUILDING CONFIDENCE

The strong commitment by BVGH to identify meaningful partnership opportunities has been pivotal in instilling confidence in WIPO Re:Search. “We have adopted a very hands-on approach to identifying the right partnership opportunities for members and presenting concrete opportunities that both leverage what the provider (a pharmaceutical company) wants to share and provide a real opportunity for a user (a research institute or academia) to fill a research gap,” BVGH’s Jennifer Dent explains.

BUILDING NETWORKS

By bringing together groups that would not normally know or interact with each other, WIPO Re:Search is catalyzing research into NTDs. As the consortium’s membership expands, so too will opportunities to match up the complementary expertise of different groups. “Bringing those people together creates new momentum in an area where research typically proceeded at a glacial pace,” explains Dr. Liotta. “I am convinced that we will look back in five years and will say that WIPO Re:Search was the ultimate multiplier, and created something much greater than the sum of its parts.”

MEASURES OF SUCCESS

Amid all the optimism about the potential of WIPO Re:Search, when can we expect to see concrete results? All too familiar with the lengthy timelines and challenges associated with vaccine and drug development, members are cautious but optimistic.

Many of the collaboration agreements relate to early-stage research, explains Dr. Pritchard and marrying scientists who have “a deep understanding of disease biology” with the

chemical and drug development expertise of pharmaceutical companies “could take many years off the drug R&D process,” he suggests. “We see an enormous amount of scientific capability, and putting together the right sorts of partnerships can really speed things up,” he adds.

While Dr. Liotta agrees that the development of a drug “is not something that we should expect realistically from WIPO Re:Search in the next couple of years,” he notes that “we can see milestones along the way. If we have a drug that reaches early-stage clinical development where you see safety and efficacy, you have done proof of concept, and that is a mark of success. If WIPO Re:Search can achieve several proofs of concept, then I think it will be doing very well,” says Dr. Liotta.

WHAT NEXT?

Building on its initial success, WIPO Re:Search will continue to develop well-targeted collaborations. “Our focus is going to be very much on building collaborations with the existing group of high-quality members,” notes Jennifer Dent. The consortium will also work to expand membership in all regions and to spread the word about WIPO Re:Search.

WIPO Re:Search represents a huge opportunity to make a difference to the lives of the 1.5 billion people living with diseases that, for economic reasons, have been inadequately addressed. The new research collaborations it is creating promise to foster new scientific understanding, revealing new opportunities to alleviate the burden of these diseases. As Francis Gurry notes, WIPO Re:Search is a clear demonstration “that the intellectual property system can work and does work to the benefit of countries at all levels of development.” It will be interesting to see how this exciting initiative evolves. ♦

CIGARETTES WILL KILL YOU: the High Court of Australia & plain packaging of tobacco products

By *Matthew Rimmer*,
Australian Research Council Future Fellow
and Associate Professor in Intellectual
Property at Australian National University

Tobacco, says the World Health Organization (WHO), is “the only legal consumer product that kills when used exactly as intended by the manufacturer.”

With a view to discouraging smoking and giving effect to the WHO Framework Convention on Tobacco Control, the Australian Parliament passed the Tobacco Plain Packaging Act 2011 (Cth), in November of that year. The legislation was supported by all the major political parties.

Labor Attorney-General Nicola Roxon argued, “Plain packaging means that the glamour is gone from smoking and cigarettes are now exposed for what they are: killer products that destroy thousands of Australian families.”

The leader of the Coalition Opposition, Tony Abbott, acknowledged, “This is an important health measure. It’s important to get smoking rates down further.” The Greens also supported the measure, and called for the Future Fund (an independently-managed fund into which the Australian government deposits its budget surplus to meet future superannuation liabilities) to end its tobacco investments.

On December 1, 2012, Australia became the first country in the world to require that tobacco products be sold in olive-colored plain packaging. Australia’s Tobacco Plain Packaging Act 2011 (Cth) regulates the retail packaging and appearance of tobacco products, requiring plain, olive-colored packaging emblazoned with public health warnings and graphic images of smoking-related diseases. The aim is to improve public health by discouraging people from smoking or using tobacco products.

Following the law’s enactment, a number of tobacco companies (led by British American Tobacco and Japan Tobacco International) challenged the legislation. This article provides an eyewitness account of oral arguments made in the High Court of Australia in the plain packaging case; and an analysis of the ensuing decision which found in favor of the Australian government (also referred to as the Commonwealth).

ORAL ARGUMENT

British American Tobacco and Japan Tobacco International brought legal action against the Australian government in the High Court of Australia, claiming that the Act amounts to an acquisition of property on less than just terms under the Australian Constitution. Phillip Morris Ltd and Imperial Tobacco joined the case, and supported their fellow tobacco companies.

The Commonwealth was supported in its defense by the governments of the Australian Capital Territory, the Northern Territory, and Queensland. The Cancer Council Australia made written submissions, but was not given leave to intervene.

The High Court of Australia heard arguments over three days from April 17 to 19, 2012. The various parties enlisted battalions of lawyers, the proceedings received intense media attention, and the public galleries were packed.

TOBACCO COMPANIES' ARGUMENTS

Tobacco companies struggled with their argument that the introduction of the plain packaging of tobacco products amounted to an acquisition of property on less than just terms.

There was much discussion as to whether the Commonwealth had indeed effected an "acquisition" of the tobacco trademarks. Japan Tobacco International's barrister argued, "The Commonwealth law by its terms arrogates the power to substitute any message the Commonwealth chooses on what we say is our billboard."

The tobacco companies argued for a broad view of property under the Australian Constitution, and claimed to hold various forms of intellectual property (IP) in relation to tobacco packaging, including trademarks, patents, designs, copyright and protection against passing-off.

Their barristers said the IP rights of tobacco companies had been extinguished, or at least severely impaired. One said, "On our analysis, everything has been taken."

There was much debate about the semiotics of tobacco packaging and clear fetishization of the tobacco pack. The judges were invited to closely inspect the packaging of tobacco products and there was a discussion of the use of words, colors, emblems, badges and logos typically associated with cigarette boxes – with references to examples such as Camel cigarettes.

However, the judges questioned the analogies drawn between property cases, dealing with land, and IP cases on the acquisition of property. Justice Gummow asked, "Are any of these cases about intangibles? A lot of the American cases are about land, are they not?" It was surprising that there was relatively little discussion about past Australian precedents on IP and constitutional law, such as the Grain Pool case (*Grain Pool of WA v Commonwealth* [2000], HCA14), the Blank Tapes case (*Australian Tape Manufacturers Association Ltd v Commonwealth* ("Blank Tapes Levy case") [1993] HCA 10), the Nintendo case (*Nintendo Co Ltd v Centronics Systems Pty Ltd and others* [1994], HCA27), and the recent Phonographic ruling (*Phonographic Performance Company of Australia Limited v Commonwealth of Australia* [2012] HCA 8).

Tobacco companies wanted to draw a distinction between graphic health warnings and "excessive regulation" (plain packaging). Justice Kiefel responded, "the degree of regulation may be extremely restrictive and yet there be no acquisition."

British American Tobacco argued tobacco companies should receive compensation for public health advertisements. "The fact that it is an improving message or a good message may be socially desirable and if it is then the Commonwealth should pay for it," they argued.

As a witness to the proceedings and an expert in IP, the arguments of the tobacco companies about acquisition of property often seemed synthetic and unreal to me.

THE COMMONWEALTH'S POSITION

The Commonwealth government mounted a strong defense of the legality and constitutionality of the plain packaging of tobacco products. Their submissions explained the measures were "directed to informing, redressing and reducing harm to the public health that is caused by use of the tobacco products."

The Solicitor-General for the Commonwealth, Stephen Gageler, argued the law was "no different in principle from any other specification of a product standard or an information standard for products or, indeed, services that are to become the subject of trade in the future."

He observed, "the product information required to be placed on these products differs only in intensity from product information that is routinely mandated to accompany therapeutic goods, industrial chemicals, poisons and other products injurious to the public health." He commented, "the mandatory graphic health warnings are the skull and crossbones for a digital age, nothing more."

The Solicitor-General said that "to suggest that the tobacco packages become little billboards for government advertising is wrong." He denied the government was engaged in advertising, or derived any such benefit, and contended that a regulatory norm of conduct was not an acquisition of property.

The government stressed that the sale and packaging of cigarettes had long been regulated in Australia, and that plain packaging was but the latest step in this process.

The Solicitor-General argued that the statutory rights of IP are often varied and modified, adding that a trademark "must at least be subject to a subsequent prohibition on use to prevent harm to the public or to public health." Indeed, Article 8 of the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) recognizes that "members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition."

The Solicitor-General also argued that the concept of just terms raised larger questions of fairness and justice under the constitution.

The Commonwealth maintained that it would be incongruous to compensate the tobacco companies, stating that “for the Australian nation representing the Australian community to be required to compensate tobacco companies for the loss resulting from no longer being able to continue in the harmful use of their property goes beyond the requirements of any reasonable notion of fairness.”

THE HIGH COURT OF AUSTRALIA RULING

Having announced its ruling in August 2012, the High Court of Australia published the reasons for its decision on the tobacco companies’ challenge to Australia’s regime for the plain packaging of tobacco products in October 2012.

By a majority of six to one, the High Court rejected the tobacco companies’ arguments that there had been an acquisition of property under the Australian Constitution. The majority judges variously described the case of the tobacco companies as “delusive,” “synthetic,” “unreal,” and suffering “fatal” defects in logic and reasoning. The dissenting judgment was by Justice Heydon.

PUBLIC HEALTH, CONSUMER RIGHTS AND WARNING LABELS

After listening to extensive arguments, the court closely considered the public health objectives of the Tobacco Plain Packaging Act 2011 and related regulations.

“Many kinds of products have been subjected to regulation in order to prevent or reduce the likelihood of harm,” wrote Justice Kiefel, noting that labeling is required for medicines and poisonous substances as well as some foods “to both protect and promote public health.”

Discussing the history of tobacco regulation in Australia, she summarized the cumulative impact of public health measures and suggested plain packaging was but the latest in a long line of tobacco control measures in Australia.

Noting the links between smoking tobacco and fatal diseases, Justice Crennan observed that the regime implemented international health law: “The objects of the Packaging Act are to improve public health and to give effect to certain obligations that Australia has as a party to the WHO Framework Convention on Tobacco Control.”

“Legislative provisions requiring manufacturers or retailers to place on product packaging warnings to consumers of the dangers of incorrectly using or positively misusing a product are commonplace,” she insisted.

Justices Hayne and Bell observed, “Legislation that requires warning labels to be placed on products, even warning labels as extensive as those required by the Plain Packaging Act, effect no acquisition of property.”

Even the dissenting judge, Justice Heydon described tobacco manufacturers as purveyors of “lies and death.”

INTELLECTUAL PROPERTY AND PUBLIC POLICY

An important theme of the ruling concerned the nature and role of IP law. The judgments stressed that IP law is designed to serve public policy objectives – not merely the private interests of rights holders.

Chief Justice French emphasized the public policy dimensions of IP law, noting that trademark legislation has “manifested from time to time a varying accommodation of commercial and the consuming public’s interests.”

In his swansong, retiring Justice Gummow commented that “trademark legislation, in general, does not confer a ‘statutory monopoly’ in any crude sense.” The judge emphasized that the Trade Marks Act did not confer “a liberty to use registered trademarks free from restraints found in other statutes.”

Discussing the nature of modern trademark law, Justice Crennan said that the aim of trademarks was not only to distinguish the products of one registered owner from another. “It became clear,” she observed, “as argument advanced that what the plaintiffs most strenuously objected to was the taking or extinguishment of the advertising or promotional functions of their registered trademarks or product get-up, which functions were prohibited by the Packaging Act.”

CONSTITUTIONAL LAW AND THE ACQUISITION OF PROPERTY

The majority of the High Court held that the plain packaging regime did not amount to an acquisition of property. This ruling is consistent with precedents on IP and constitutional law, such as the Grain Pool case, the Nintendo case, and the Phonographic ruling.

In a judgment notable for its clarity and precision, Justices Hayne and Bell ruled, “The Plain Packaging Act is not a law by which the Commonwealth acquires any interest in property, however slight or insubstantial it may be. The Plain Packaging Act is not a law with respect to the acquisition of property.”

Justice Kiefel said, “The central statutory object of the Packaging Act is to dissuade persons from using tobacco products. If that object were to be effective, the plaintiffs’ businesses may be harmed, but the Commonwealth does not thereby acquire something in the nature of property itself.”

Photos: Packaging designs © Commonwealth of Australia. Health warning images used with the permission of the Australian Government.



Chief Justice French held that the arguments of the tobacco companies were fatally flawed.

In his dissent, Justice Heydon complained generally about the government encroaching upon the acquisition of property clause, “The flame of the Commonwealth’s hatred for that beneficial constitutional guarantee, s 51(xxxi), may flicker, but it will not die. That is why it is eternally important to ensure that that flame does not start a destructive blaze.”

THE AFTERMATH OF THE DECISION

The decision on plain packaging of tobacco products is undoubtedly one of the landmark rulings of the High Court of Australia, with its discussion of public health law, IP law, and constitutional law. It is certainly not a quirk of Antipodean constitutional law as alleged by British American Tobacco.

The High Court of Australia is a well-respected superior court – its precedent will be influential throughout the world. Indeed, the decision chimes with rulings by the Supreme Court of Canada and the South African Supreme Court on public health and tobacco control.

The ruling will reinforce Australia’s position with respect to international conflicts over the plain packaging of tobacco products, such as in the World Trade Organization (WTO) and in investment tribunals.

The decision may also encourage other countries to join an “Olive Revolution,” and introduce standard olive-colored, plain packaging with large health warnings for tobacco products.

The WHO welcomed the landmark ruling and called upon the “rest of the world to follow Australia’s tough stance on tobacco marketing” which is fully in line with the WHO Framework Convention on Tobacco Control. The Director-General of the WHO, Dr Margaret Chan, said that the ruling would encourage other countries to implement tobacco control measures, such as the plain packaging of tobacco products, noting, “with Australia’s victory, public health enters a brave new world of tobacco control. Plain packaging is a highly effective way to counter industry’s ruthless marketing tactics. It is also fully in line with the WHO Framework Convention on Tobacco Control. The lawsuits filed by Big Tobacco look like the death throes of a desperate industry. With so many countries lined up to ride on Australia’s coattails, what we hope to see is a domino effect for the good of public health. The case is being watched closely by several other countries who are considering similar measures to help fight tobacco.”

Dr. Chan implored other countries to take steps to reduce demand for and supply of tobacco products under the WHO Framework Convention for Tobacco Control. India, New Zealand, Norway, the United Kingdom and Uruguay are particularly keen to follow Australia’s lead.

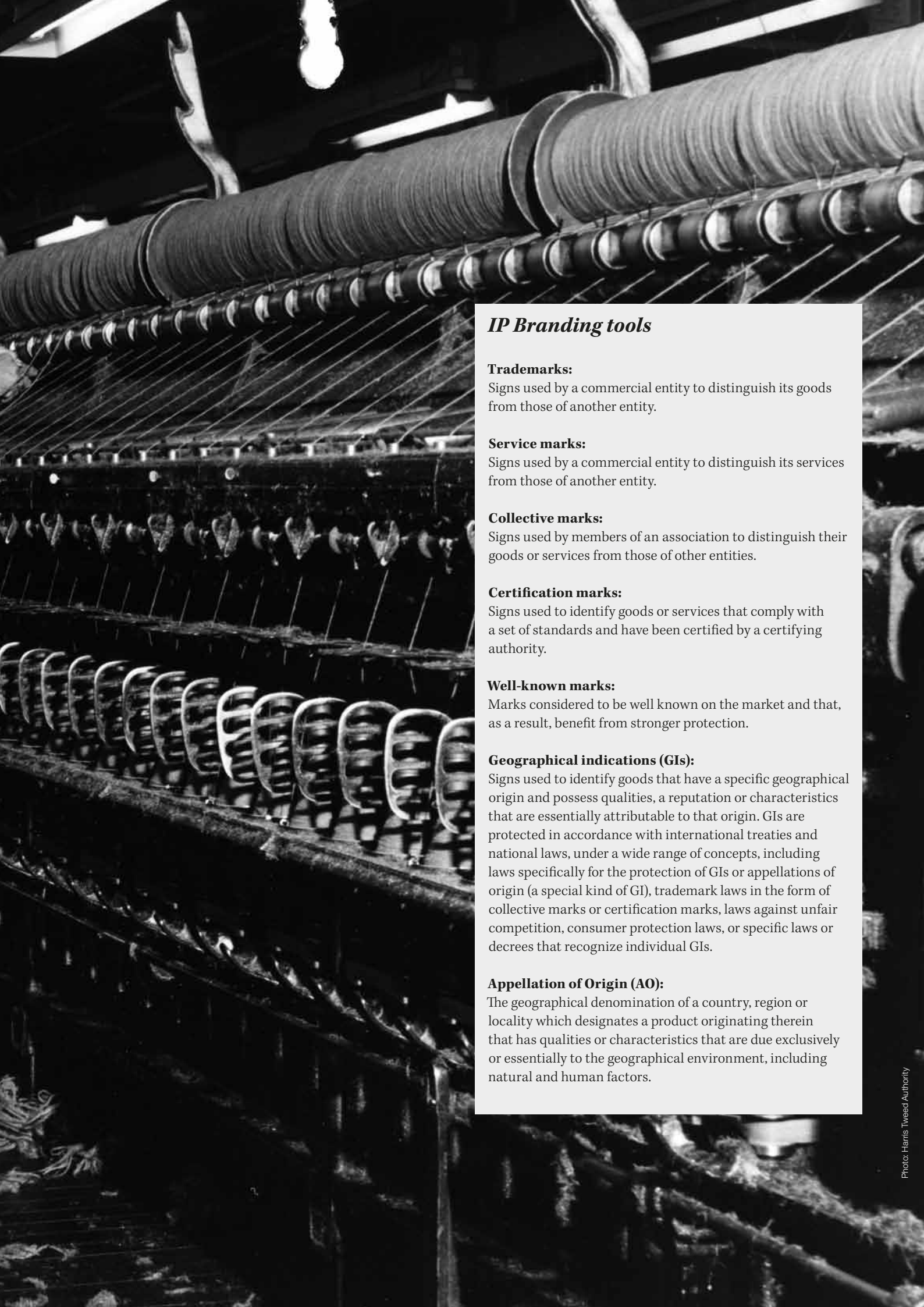
The High Court of Australia ruling has strengthened Australia’s position in international law. Ukraine has sought to challenge Australia’s plain packaging regime under the TRIPS Agreement through the WTO dispute settlement procedures (see Dispute DS434). Philip Morris has also sought to challenge Australia’s plain packaging regime under an investment treaty between Hong Kong (SAR) and Australia. There has also been much discussion as to whether tobacco control measures will be affected by the Trans-Pacific Partnership, currently under negotiation. ♦



FROM CROFT TO CATWALK

the Harris Tweed collective mark

By Dan Anthony, freelance writer. A version of this article first appeared in IP Insight (October 2012) published by the UK Intellectual Property Office.



IP Branding tools

Trademarks:

Signs used by a commercial entity to distinguish its goods from those of another entity.

Service marks:

Signs used by a commercial entity to distinguish its services from those of another entity.

Collective marks:

Signs used by members of an association to distinguish their goods or services from those of other entities.

Certification marks:

Signs used to identify goods or services that comply with a set of standards and have been certified by a certifying authority.

Well-known marks:

Marks considered to be well known on the market and that, as a result, benefit from stronger protection.

Geographical indications (GIs):

Signs used to identify goods that have a specific geographical origin and possess qualities, a reputation or characteristics that are essentially attributable to that origin. GIs are protected in accordance with international treaties and national laws, under a wide range of concepts, including laws specifically for the protection of GIs or appellations of origin (a special kind of GI), trademark laws in the form of collective marks or certification marks, laws against unfair competition, consumer protection laws, or specific laws or decrees that recognize individual GIs.

Appellation of Origin (AO):

The geographical denomination of a country, region or locality which designates a product originating therein that has qualities or characteristics that are due exclusively or essentially to the geographical environment, including natural and human factors.

Harris Tweed, the oldest British certification mark, is an example of British branding success that speaks to both large and small businesses.

Certification marks are trademarks with a difference. They guarantee that goods or services meet a defined standard or possess a particular characteristic. This ancient method of identifying products has its roots in the medieval guild system. Groups of traders characterized by profession or location were recognized through their guild and the reputation associated with it. At the beginning of the 20th century the need to adapt this model to modern business practice gave birth to the certification mark.

Because of the unique association between a certification mark and the quality and nature of products that bear it, some of the normal trademark rules do not apply. For example, normally unregistrable geographical names may be accepted as certification marks where the mark is capable of distinguishing products.

The Harris Tweed name is recognized all over the world. The success of the Harris Tweed Authority's certification mark demonstrates that successful branding in the global economy can be achieved by small groups of businesses.

THE MIRACLE OF HARRIS

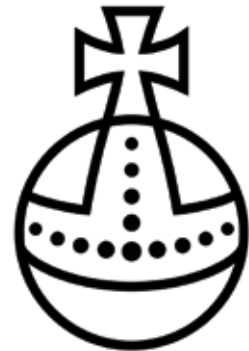
It is hard to imagine a more difficult location for sustaining a successful business than the Outer Hebrides of Scotland. The chain of around 70 islands – stretching 130 miles along the Atlantic seaboard of Scotland, with a population of around 26,500, lashed by gales, unconnected by road, often only accessible by boat – appears better suited to the development of survival, rather than branding, techniques.

However, the Harris Tweed certification mark and the act of Parliament that enshrines the definition of Harris Tweed, is a remarkable piece of intellectual property (IP). To carry the famous Harris Tweed mark, the cloth must be:

“handwoven by the islanders at their homes in the Outer Hebrides, finished in the Outer Hebrides, and made from pure virgin wool dyed and spun in the Outer Hebrides.” Harris Tweed Act – 1993

This definition is the nearest thing to a magic spell anyone is likely to see. In 1909, when the certification mark was first registered, the islands of Scotland were suffering from depression, depopulation and outward migration. Tweed from the area was popular, but with the development of new production techniques, the industry was under threat.

The unique selling point of Harris Tweed is that it must be “handwoven by the islanders.” In the industrial complexes of the mainland, handloom weavers would have given anything for a



Harris Tweed

The Harris Tweed certification mark – number 319214 – registered in 1909 is the oldest British certification mark. The Harris Tweed Act of 1993 ensures all cloth certified with the Harris Tweed Orb symbol is genuine Harris Tweed, the world's only commercially produced handwoven tweed.

“The Harris Tweed certification mark demonstrates that successful branding in the global economy can be achieved by small groups of businesses.”





Photos: Harris Tweed Authority

Harris Tweed is handwoven by the islanders at their homes in the Outer Hebrides, finished in the Outer Hebrides, and made from pure virgin wool dyed and spun in the Outer Hebrides.

law that prevented mechanization. The Harris Tweed Association, the predecessor to the existing statutory Authority, created a way of spinning gold out of straw.

Harris Tweed is made by individual weavers working in their homes on machines they power themselves. It is literally a cottage industry, perhaps one of the last in the world to produce goods for the global market. The definition of Harris Tweed substantiates an image of the solitary weaver working in a bothy on the wind-blasted slope of a practically empty island valley. Every inch of Harris Tweed that leaves the Hebrides is made in this way, so when customers buy Harris Tweed they acquire a garment... and some of the islands' magic.

THE GUARDIANS OF THE ORB

Harris Tweed's success depends on many things: the unique means of production; the romance of the islands' location; and the quality of the product itself are important. However, so too is the commitment of the islanders; the loyalty of the customers; and the vision of "team tweed." Tweed cloth from Harris is sought after by designers all over the globe and packs a punch on the catwalks of the world.

Lorna Macaulay, Chief Executive of the Harris Tweed Authority, spoke about the success of the Harris Tweed certification mark from her office in Stornaway:

"The markets for Harris Tweed have shifted somewhat in recent years, with Japan now the largest market, followed closely by Germany, which has been a strong and stable customer base for many decades. We are also selling very well in China, South America, the Republic of Korea and India. We are really pleased the American market has come back strongly over the last year, and we believe there is much more we could be doing there."

"In what has clearly been one of the most challenging economic periods for the UK in 50 years, the Harris Tweed industry is bucking the trend by showing manufacturing growth of 30 percent year on year since 2009. Harris Tweed production peaked in 1966 with some 7 million meters of cloth leaving the Outer Hebrides. In 2012 we will achieve an important milestone for the current industry of 1 million meters plus. For a variety of reasons, it is unlikely we will ever see the volumes of the 1960s again, but we are very focused on becoming a much better industry, if not a much bigger one."

INTELLECTUAL PROPERTY CREATES ECONOMIC OPPORTUNITIES

The special thing about the western isles of Scotland is that it is not a great place for industry. One of the strengths of IP is that regardless of location, it can create economic opportunities and jobs. For over 100 years, the Harris Tweed certification mark has exemplified quality, style and a unique feel and has provided a secure source of income for Islanders. There is no reason why the yarn should not run forever.

"The visionaries who registered the Orb Trademark in 1909 were indeed just that – visionaries. Clearly, however, they were not to see 100 years into the future to the advances of the Internet and the challenges it brings to protecting a trademark from infringement and counterfeiting," says Lorna Macaulay. "Here in the Outer Hebrides of Scotland, we are a long way away from the commercial markets in which Harris Tweed is sold. We do not, however, let that hinder our efforts to protect our various marks registered throughout the world. We use the best legal advisors in the country and will pursue (and have pursued!) any individual or business that attempts to undermine what is so important to and valued by both the people of the Outer Hebrides and our customers."

More information about Harris Tweed is available at:
www.harristweed.org

ALGERIA'S ANTI-PIRACY CAMPAIGN

*By Mr. Ali Chabane,
Director, National Copyright
Office (ONDA), Algeria*



Photo: ONDA, Algeria

As part of a nation-wide anti-piracy campaign, in early October 2012, over a million pirated CDs and DVDs were seized and destroyed by inspectors from Algeria's National Copyright Office (ONDA) at a public ceremony in Algiers. The event which took place under the watchful eye of music and film celebrities as well as leading government and law enforcement officials sent a clear message about the government's strong commitment to tackling copyright piracy. Algeria introduced its anti-piracy campaign to the December 2012 meeting of the WIPO Advisory Committee on Enforcement (ACE).

STEP-WISE IMPLEMENTATION OF ANTI-PIRACY STRATEGY

This impressive haul of unauthorized copies is a clear indication that Algeria's anti-piracy strategy has teeth and is beginning to take effect. "This strategy is an appropriate response to the many different types of copyright infringement suffered by creators and artists," explains Mr. Sami Bencheikh, Director General of ONDA. "It encompasses a series of measures combining the suppression of counterfeiting activities with awareness-raising among consumers."

THE SCALE OF PIRACY, A COMPLEX CHALLENGE

Piracy is one of the main challenges facing Algeria's authors, musicians, publishers and producers. While difficult to quantify, ONDA estimates that piracy rates are around 60 percent affecting a wide range of creative content, especially music and films, pirated versions of which are available in multiple formats including CDs, VCDs, DVDs and books.

An impressive haul of unauthorized copies of CDs, DVDs, VCDs and cassettes is a clear indication that Algeria's anti-piracy strategy has teeth. With an estimated piracy rate of around 60 percent, piracy is one of the main challenges facing Algeria's authors, musicians, publishers and producers.

Algeria's anti-piracy challenge, like that of many other countries, is multifaceted and complex. The recent escalation in copyright piracy witnessed in Algeria is attributable to a number of factors. Principal among these is the widespread availability of low-cost technologies which make it easier for infringers to illegally download creative content from the Internet and reproduce unauthorized copies. Infringers do not have to invest hefty sums to be able to generate large volumes of unauthorized creative content with which they can then flood the market via powerful informal distribution networks.

The problem is compounded by low levels of intellectual property (IP) awareness among consumers who are lured by what they think is an attractive deal. They can buy "Best of" collections of their favorite artists at knock-down prices. The fact that purchasing a pirated CD or DVD threatens the ability of musicians and filmmakers to continue to produce new hits and movies and has a far-reaching negative economic impact, is, in general, lost on them. Piracy threatens the livelihoods of creators and if we want to ensure a sustained stream of rich and entertaining content, and to ensure that the country's creative sector continues to flourish, we need to stamp it out.

HEAVY LOSSES FOR AUTHORS

In 2011, royalties received by ONDA from recording and reproduction rights were 36 percent lower than amounts received in 2008. During this period, many businesses were forced to close and several record companies ceased trading, leading to major job losses and a heavy loss of income for authors, musicians, publishers, producers and the government. This was an alarming and unprecedented development in Algeria's cultural product distribution sector.

"Although, in 2011, to a certain extent we managed to halt the serious decline in the revenues of authors and music publishers, there is still a great deal to be done to put an end to this scourge," says Mr. Bencheikh.

A MODERN LEGAL FRAMEWORK

Revised in 2003 to bring it into line with international standards of IP protection, Algeria's law on copyright and related rights offers an effective framework for combatting copyright infringement. It gives law enforcement officials as well as ONDA inspectors wide-ranging powers to carry out searches, record copyright infringements and, where necessary, seize and hold counterfeit CDs, cassettes, DVDs and VCDs. The tough sentences that it provides for are designed to deter infringers from continuing their illegal trade.

A RENEWED STRATEGY

The recent crisis facing Algeria's creative sector – the dramatic decline in the revenues of creators and producers as a direct result of piracy – is fuelling efforts to combat this illegal trade in pirated goods. Algeria is reframing its anti-piracy strategy



Photo: ONDA, Algeria

Algerian Minister for Culture, Mrs. Khalida Toumi, underlines the government's determination to combat all forms of IP infringement.

and stepping up efforts to safeguard the long-term economic interests of the country's talented creative sector. The country's new anti-piracy strategy is aligned with international best practices and is designed to suppress the trade in pirated goods by focusing on:

- increased inspection of sales points and markets;
- anti-piracy public awareness media and educational campaigns to build respect for IP rights;
- the training of law enforcement officials (including judicial authorities and the police) on IP enforcement issues;
- the implementation of mechanisms to improve inter-institutional coordination in the fight against piracy.

IMPROVED INTER-INSTITUTIONAL COORDINATION

With a view to strengthening coordination mechanisms among the various services responsible for tackling copyright theft and piracy, ONDA and the Directorate General of National Security recently formalized their long-standing cooperation. In the wake of the October 2012 public destruction ceremony, the two organizations signed an agreement to strengthen cooperation in the fight against piracy. The agreement was signed in the presence of the Algerian Minister for Culture, Mrs. Khalida Toumi, and a number of national music and film celebrities and personalities.

Speaking at the opening of the ceremony, the Minister for Culture underlined the Algerian government's determination to combat all forms of IP infringement. In this context, the Minister announced that ONDA would be launching a major IP awareness campaign in 2013 to inform users and consumers about the far-reaching negative impact of piracy both in relation to the legitimate interests of authors and artists as well as the long-term social and economic interests of the country. ♦

Harnessing Central and Eastern Europe's INNOVATIVE POTENTIAL

By **Mikolaj Rogowski**, PhD student,
Intellectual Property Law Institute,
Jagiellonian University, Poland



With the dramatic events of the late 1980s, many Central and Eastern European countries began a process of transition towards a market-driven, innovation-based, knowledge economy. While these countries have tremendous innovative potential, establishing innovation ecosystems that fully harness that potential and translate it into sustained economic growth remains an ongoing challenge. This article discusses the strategic importance of universities and public research organizations (PROs) in boosting the region's innovation performance and growth prospects and looks at a range of WIPO tools designed to support countries in this endeavor.

The visionary inventor and entrepreneur, Thomas Edison, once said "to have a great idea, have a lot of them." The constant and abundant flow of ideas is a prerequisite for the emergence of technologies that can make a positive difference to society. As bastions of knowledge and learning, universities and research institutes are awash with curious minds that seek to develop creative solutions to present-day challenges. As hubs of creativity, universities and research organizations represent countless opportunities to forge intellectual potential into creative solutions.

Countries in Central and Eastern Europe have a strong academic tradition. The region is home to some of the world's oldest universities, such as the University of Prague in the Czech Republic and the Jagiellonian University, in Poland, both established in the 14th century. Countries in the region have a deep pool of talented and well-educated inventors and creators and a strong capacity for producing and expanding knowledge.

While, in general, Central and Eastern European countries have significantly boosted their innovative capacities, many within the business community are acutely aware that further progress is needed to ensure the region realizes and benefits from its full innovative potential.

Given the strategic importance of universities as generators of new knowledge and the fact that knowledge is becoming an increasingly important part of production, many believe that promoting stronger linkages between the region's academic and business communities offers significant promise in terms

Countries in Central and Eastern Europe are home to some of the world's oldest universities including Poland's Jagiellonian University (in the background).



of boosting its innovation performance and economic growth. Closer and more effective collaboration between academia and business can also help stem the outflow of skilled labor from the region. The current “brain drain” experienced by many countries in the region is making it increasingly difficult for universities and businesses to retain the high-calibre individuals they require to enhance their capacities to generate high-value technologies.

In securing the region’s long-term economic growth, the stakes could not be higher. The link between technological development and economic growth is now firmly established. As far back as the 1950s, the Nobel prize-winning economist, Robert Solow, determined that the introduction of new technologies accounts for as much as 80 percent of a country’s wealth or gross domestic product. In today’s digitally-driven knowledge economy, the need to innovate and develop new technologies has become even more central to the competitiveness of businesses operating in national and global markets, to economic growth and to the creation of better jobs.

Work undertaken by the innovation think-tank, Nesta, demonstrates that the six percent of UK innovation-based businesses with the highest growth rates generated half of the new jobs created in the UK between 2002 and 2008. Similarly, WIPO’s *World Intellectual Property Report 2011* underlines the crucial contribution made by universities and PROs, as producers and diffusers of knowledge, in the development of national innovation systems (see: www.wipo.int/wipo_magazine/en/2012/03/article_0008.html).

“Firms and other innovators depend on the contributions of public research and of future scientists to produce innovation of commercial significance,” the report notes. The increasingly science-based nature of technological advances, it submits, further underlines the crucial importance of strengthening links between academia and business.

The report cites a number of economic studies that demonstrate the positive impact that academic research has on industrial innovation and productivity. It suggests, however, that successful outward knowledge transfer from academia will only succeed if a “two-way exchange that builds on the mutual capacities of the public and private research sectors” is fostered. Within this mix, intellectual property (IP) is of central importance.

The experiences of a number of countries point to the benefits that can accrue to universities by adopting a stronger entrepreneurial orientation that embraces patenting and licensing. In a number of cases, this has helped to boost the quality of university research and establish mechanisms to encourage the transfer of commercially significant, cutting-edge technologies. In the US, for example, studies show that university patenting and licensing have been fundamental to the emergence of new industries and that US university start-ups are more likely to

develop into viable businesses and create more jobs. Similarly, the experiences of Japan and Finland demonstrate that universities and PROs can realize their innovative potential by adopting an effective IP policy that transforms public research into valuable commercial assets and promotes strategic use of these valuable assets.

HARNESSING THE INNOVATIVE POTENTIAL OF UNIVERSITIES

How then can the enormous potential of academic institutions in Central and Eastern Europe be better harnessed to realize the region's full potential and boost economic growth? WIPO's Division for Certain Countries in Europe and Asia (DCEA) has developed a range of tools that addresses the specific challenges faced by Central and Eastern European countries when it comes to strengthening links between academia and business. These tools, which include studies, guidelines, recommendations and model policies, are designed to support public research hubs throughout the innovation process, from conception to commercialization.

The *WIPO Study on Technology Transfer in Countries in Transition* offers policy recommendations that help foster closer university-business collaboration. It outlines options for developing and implementing more effective and mutually beneficial technology transfer practices.

Similarly, the *WIPO Guidelines on the Management of Academic Intellectual Property in Early Stage Innovation in Countries in Transition* identify effective IP management practices for early-stage innovations. The guidelines were based on a survey that benchmarks current practices and identifies bottlenecks in the current innovation process. They focus on three main areas, namely, technology transfer; technology transfer organizations; and academic IP rights management and offer useful insights into a range of issues, including managing patent portfolios; effective commercialization strategies; and technology management. This practical guide maps a course for those seeking to leverage the commercial value of university research. It identifies potential risks and possible solutions when commercializing a technology.

WIPO's Model Intellectual Property Policy for Universities and Research Institutions is a further complement to the suite of tools available to support the development of national innovation ecosystems in the region. A template to support universities in crafting their own IP policies, it outlines the various rights and strategies that may be employed to protect, leverage and transfer intellectual assets to the commercial setting.

Universities and PROs can reap huge benefits from the implementation of a comprehensive IP strategy. Such an approach promises long-term financial sustainability with the potential creation of new revenue streams from strategic licensing of research-derived technologies. It also promises qualitative

improvements in terms of research and development. The commercialization of cutting-edge technologies and the creation of academic start-ups offer interesting employment options for postgraduates. In turn, this can serve as a magnet to attract high-calibre students and researchers, who bring with them new ideas and new potential. Moreover, with an effective institution-wide IP policy in place, a university is well placed to take advantage of international collaborative research opportunities. The complexity of present-day scientific challenges is such that without partnerships underpinned by robust IP agreements, little high-impact scientific progress will be possible. As one academic recently put it, research practice has recently moved from "publish or perish" to "partner or perish."

Effective use of IP, however, hinges on an understanding of how the system works and how it can be used to best advantage. While much progress has been made in terms of raising IP awareness in recent years, much still remains to be done. In addition to the range of IP courses offered by the WIPO Academy (www.wipo.int/academy/en/), WIPO has also developed a tool for the teaching of IP in the Central and Eastern European region. The tool identifies the specific IP needs of countries in the region with respect to training and education. It introduces core IP curricula as well as innovative IP teaching methodologies. Full details of the range of tools crafted specifically for countries in the region are available at: www.wipo.int/dcea/en/.

As Thomas Edison noted, "genius is one percent inspiration and 99 percent perspiration." Only by introducing a full system of measures aimed at stimulating creativity and effectively harnessing its fruits through the use of IP can we make sure that all the hard work that is invested in innovation within universities and PROs does not go to waste. An effective IP strategy is a pivotal element in ensuring that the region is in a position to fully develop and leverage its capacity to innovate and thereby stimulate long-term economic growth. ♦



For more information contact WIPO at
www.wipo.int

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

Telephone:
+4122 338 91 11

Fax:
+4122 733 54 28

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