

EUROPEAN INTELLECTUAL PROPERTY TEACHERS' NETWORK WORKSHOP

**Newcastle Law School, Newcastle University
29-30 June 2008**

REPORT

**Report prepared on behalf of the
European Patent Office**



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PROGRAMME & TIMETABLE

Sunday 29th June

14.00 **Check-in**—opens at Castle Leazes for those using University accommodation

19.00-19.30 **Pre-conference drinks and dinner**

Monday 30th June

08.30 **Registration and Coffee**—in the Mooting Room/ Common Room

08.30 **Opportunity to visit the Law Library**—in the Law School Basement.
The library will be available for browsing or a quiet chat throughout the day

09.00-9.15 **Welcome and introduction** Alison Firth (Newcastle)

09.15-9.45 **Plenary speaker**

Guy Carmichael (European Patent Office) “The Future of IP and the impact on Teaching and Learning Activities”

09.45-10.35 **Session 1: Thinking beyond the traditional**

Chair: Alison Firth (Newcastle)

Caroline Coles (Leicester De Montfort) “Teaching Practical Skills with IP Teaching”

Norain Ismail (Newcastle Law School) “The use of posters as a teaching tool”

10.35-10.55 **Noël Campling (Director, European Patent Academy of the European Patent Office)**

IP Teaching Kit: presentation and feedback

10.55-11.15 **Coffee**

11.15-12.45 **Session 2: The Context of IP Education**

Chair: Duncan Matthews (Queen Mary, London)

Adoración Pérez Troya (Alcala) “Teaching IP in the context of the Bologna Process and Beyond”

Robert Pitkethly (Oxford) “University IP Culture and IP Education”

Claire Howell (Aston) "Teaching IP to Law and Business Students"

12.45-14.10 Lunch

14.10-15.40 Session 3: Parallel Sessions

Group A: Teaching and Learning Environments

Chair: Ilona Cheyne (Newcastle)

Fernando Barrio (London Metropolitan) "Learning Technologies as Means and Subject of IP Law Teaching"

Arzu Oğuz (Ankara) "IPR Teaching in Turkey"

Group B: Reaching the Diverse Audience

Chair: Claire Howell (Aston)

Wolrad Prinz zu Waldeck und Pyrmont (MIPLC) "The MIPLC's Experience of Mixed Classes and Intensive Modules - Lessons Learned"

Chris Ryan (Nottingham Trent) "Postgraduate IP at Nottingham Trent University"

Plenary

Charlotte Waelde (Edinburgh) "Problem-Based Learning over Space and Time"

15.40-16.00 Tea

16.00-17.30 Session 4: How Far Do You Go?

Chair: Christopher Wadlow (East Anglia)

"Reports from the Parallel Sessions -contrasts and insights"

Bronwen Jones (Rapporteur, Newcastle Law School) and Alison Firth (Newcastle Law School)

Immaculada Gonzalez Lopez (Cuatrecasas, Alicante) "The Protection of Minor Inventions in the European Union - The Pedagogic Difficulty of Placing this Matter in a Comparative IP Context"

James Griffin (Exeter) "The Role of 'Ancient Regulation' in a Copyright LLM Course"

17.30-17.45 Next Steps & Closing Remarks

Welcome

Professor Alison Firth welcomed all participants to the 2008 European Intellectual Property Teachers' Network meeting. She presented apologies on behalf of Mike Adcock who was unfortunately unwell and unable to attend and changes to the programme were announced. She then introduced Mr Ashley Wilton, Head of School at Newcastle Law School, Newcastle University, and handed over to him for a formal welcome.

Mr Wilton warmly welcomed all the participants, to Newcastle Law School, noting the number of distinguished visitors to whom he gave special thanks for coming. He stated that he was delighted to be hosting the event, explaining that he was keen to build intellectual property (IP) capacity at Newcastle Law School. He pointed out that Newcastle Law School has a strong track record in IP, lead by Alison Firth and Ilona Cheyne and pointed, in particular, to a vibrant doctoral programme. He hoped that the meeting would prove both productive and thought-provoking.

Alison Firth continued the preliminary greetings by thanking the European Patent Office for its most generous support of the European Intellectual Property Teachers' Network workshops which now attract speakers from all over Europe, including Turkey, as well as from around the UK. She thanked, in advance, the speakers, the chairs and the rapporteur, and gave special thanks to a number of people for their particular contributions. She thanked Giovanna Oddo for her help and for the conference packs which all agreed were a 'cut above' the ordinary conference pack. She also thanked Ilona Cheyne for her help and support, as well as Claire Howell and Rosa Greaves who have both previously hosted workshops. Duncan Matthews received special thanks for all his hard work. Gemma Hayton was described as key to organizing the event and the contributions of Gemma and her colleagues in administration at Newcastle Law School were gratefully acknowledged. Research students who had guided visitors around both city and campus were thanked, among them Firas Massadeh and Yanjun Lu who also took photos of the event.

Keynote Address

The Future of IP and the impact on Teaching and Learning Activities

Guy Carmichael (European Patent Office), (gcarmichael@epo.org)

Summary

Guy Carmichael received an M.Eng in Manufacturing Sciences and Engineering from the University of Strathclyde in 1983 and went straight on to become an examiner at the European Patent Office, qualifying as a European Patent Attorney in 1997. He has recently been involved in the EPO's Scenarios for the Future project which involved interviewing 150 key figures in the fields of science, business, politics, ethics, economics and law representing all shades of opinion regarding the future of intellectual property, and patenting in particular. The results of this three-year project, which attempted to formulate plausible, relevant and challenging possible futures for the European patent system, were published both as a compendium and on-line in April 2007 and are now being used as a basis for discussing and analysing many aspects of the system.

Guy Carmichael started his address by referring to a recent article he had read in the UK newspaper *The Observer*, written by a futurologist whom he quoted as saying that, 'the patent system has outlived itself'. Such a statement clearly gives food for thought to the European Patent Office (EPO), which is engaged in thinking about the future of IP. For the EPO, of course, consideration of IP starts with thinking about patents.

The world of IP is changing and there are difficulties ahead. Guy Carmichael said that in the 1980s, for example, the world of IP, especially where patents were concerned, was very different. To illustrate, the company IBM was suffering at that time from problems that brought it close to bankruptcy. It was only when they realized the value of their IP assets and began to make better use of them that they were able to stabilize their position. Now, they are making billions of dollars a year just by using their IP rights effectively. There is, therefore, much greater awareness today of the economic value and potential for exploitation of IP rights.

Twenty five years ago, there was an expectation that applications to the EPO would level off at about 30-35,000 per year. However, today, the yearly figure is closer to 230,000. This presents difficulties, and in an attempt to remain relevant, plausible and up to the challenges ahead the EPO has tried to present a number of potential scenarios for the future, based on interviews with individuals.

In the interviews the idea was to look at the entire contextual environment, and to consider all aspects, especially anything that could not be controlled. Thus the concerns of all stakeholders in the future of IP were considered, including, among other factors: religious sensibilities, NGO concerns, investors' needs etc.

All those interviewed agreed that there will be changes in the future, but there was little agreement about the direction. The EPO acknowledges that the future will be complex and has, therefore, produced a document putting forward its thinking about possible approaches to IP in the future. This is freely available as a book on the internet or alternatively on CD Rom.

The book presents scenarios visualized as four different coloured rooms. The business perspective is a grey room; the social and ethical perspective is green; geo-politics is red; and technology is blue.

Most IP stakeholders tend to place themselves firmly in one area or another. They are likely to be convinced that their view is the most important, leading to polarization and lack of agreement. But the metaphorical representation of the differing scenarios or views of the future has proved to be a very useful way to generate discussion amongst people of differing views.

For many, the grey scenario is the one with which they are most comfortable. This deals with market rules and values and is primarily about money. Here, IP is looked at as a financial tool and a way to make money.

The red scenario, or geo-political viewpoint, sees IP as a potential trade weapon. The system is largely polarized between West and East, and here the Trade Related Aspects

of Intellectual Property Rights Agreement (TRIPS) is relevant. Traditionally, the system has been dominated by the west, but that may be changing as countries become wise to the ways of using IP more effectively to reinforce their own interests.

Social and ethical perspectives are represented here by the green scenario. These are epitomized in the South African confrontation over drugs in which both intellectual property and competition law were invoked in the attempt to get a fairer deal for people living with HIV, while companies and countries squabbled over IP and profits.

There is also an overlap between patent and copyright, with issues raised over access to knowledge. In one possible future, envisaged by some, by 2025, inventions may be largely patent-free leaving them open to all to exploit. This scenario, however, would have a strong impact on research which will still need to be funded somehow.

The blue scenario is technology-driven and complicated. The number of patents involved in one mobile phone, for example, may be huge, potentially having the effect of blocking research and making it difficult for inventors to maneuver. The company Blackberry, for example, could have been shut down by attempts to enforce dubious patent rights.

Different approaches to patenting have potentially radically different outcomes, and it will be important for the future to get the balance right. In the more traditional approach any infringement of a patent will lead to a request for an injunction, thus blocking development; a softer IP scenario may involve acquiring a patent, but then setting a price for licensing the technology, meaning that anyone can use it.

How do these scenarios affect the teaching of IP? They show that there is no single global approach to IP which means that it is necessary to raise awareness of the different positions. Guy Carmichael hopes that the EPO book will provide a platform for discussing four possible futures, helping students to see the complexity of the issues, not only from their own perspective, but also from those of others.

The book has already been used in some unexpected ways; in teaching Business English, for example. Each scenario raises important questions and can be used as a

learning tool. Overlaps between the different scenarios involve challenges that can be put to students in order to encourage them to develop strategies in order to deal with them.

The different scenarios are apparently competing futures, but in reality the future will be a mixture of all the factors. Here the EPO is attempting to present visions of the future in a fair and neutral way in order to encourage discussion involving mutual appreciation of differing perspectives as a tool to think about the future. The hope is that, although a solution may not immediately become apparent, such discussions may, hopefully, help to make the right strategic decisions for the future.

All the information mentioned here is available free on the EPO website
<http://www.epo.org/topics/patent-system/scenarios-for-the-future.html>.

Session 1
Thinking Beyond the Traditional

Chair: Alison Firth, Newcastle Law School
(alison.firth@ncl.ac.uk)

Teaching Practical Skills with IP Teaching

Caroline Coles (Leicester, De Montfort), (ccoles@dmu.ac.uk)

Caroline Coles achieved a BSc in 1982 and went on to receive the Diploma in Law in 1993. She became a solicitor in 1998. She has founded her own management consultancy firm, practiced with Freeth Cartwright in Nottingham and, prior to qualification, worked in marketing with Boots Company plc. Currently, she teaches Business Law and Practice, Commercial Law and Business Accounts on the Legal Practice Course (LPC) at De Montfort University. She is the coordinator for e-learning for the Department of Professional Legal Studies.

Summary

Caroline Coles teaches primarily on the LPC, which provides the context for her presentation. She frequently finds herself torn in her teaching between focusing on skills or substance. The teaching of skills is often viewed very negatively, with articles in the press criticizing teachers for focusing on skills to the detriment of content. A feeling prevails that skills-teaching dilutes the curriculum and is somehow 'woolly'. Even employers sometimes voice the idea that the best place to learn skills is in the workplace. Educationalists, on the other hand, see education as an aim in its own right and don't necessarily feel the need to justify what they do economically.

However, the Dearing Report has inspired Caroline with another possible view. With a changing economy and potential unemployment, there is a shift in focus to the concept of transferable skills that can be applied in different situations. The importance of lifelong learning is recognized and there is a growing realization that we need to develop skills in order to be able to adapt. However, it is questionable to what extent 18 year olds are aware of the implications of any change. Thus, there must be a minimum of skills teaching in order to ensure that all students have the opportunity to acquire key skills.

In the context of law, in order to determine what the key skills should be, the perspectives of both employers and the Solicitors Regulatory Association (SRA) have to

be taken into account. Most firms want their trainees to be able to demonstrate skills immediately and consultation with firms has shown that there is a role for the teaching of skills. This has resulted in changes to the LPC course.

At DeMontfort University there has been some research into self-assessment, with students assessing their own competence in skills. This is based on the belief that students should be able to reflect on their own abilities. The idea is that, having identified a weakness, they should engage with the universities' support mechanisms in order to obtain extra training in those areas.

Such reflection, however, is not necessarily a natural process at 18, or even at 21 and there are difficulties with this approach because those who need help don't necessarily identify their own weaknesses, and even where they do they may not engage with the support they need. Many students also share weaknesses and strengths. The majority of students, for example, are confident about their IT skills, but only a tiny minority are confident when it comes to academic writing.

Caroline has, therefore, decided to focus, in her teaching, on the cyclical process of experiential learning. The cycle begins with experience, moves onto reflection, then to the creation of methods to deal with problems, finally leading to experimentation. In order to do this there is a need for concrete experience and for the time in which to reflect. This poses questions about how to encourage the students to get involved with the learning material and to spend the necessary time to reflect, something which is especially difficult when working with part-time students who are probably working as well as studying. The aim is to always be student-centered, so the students do the work, but this can be unnerving and difficult for students in the beginning.

The idea is to achieve a deep approach to learning through which the students understand and interpret the material, integrating it and setting it into their own context. This approach contrasts with the approach of the surface learner who tends to learn by rote and is unlikely to reflect, or the strategic learner, typical of many LPC students, who learn purely for assessment purposes and constantly asks, 'is it in the exam'. It is the prevalence of this type of student that is the real threat to the deep approach. The

strategic approach is learned early on, in secondary schools where SATS have had the effect of encouraging a limited focus.

A further threat comes from different learning styles, sometimes associated with personality types. Some students simply don't welcome experimentation, and it has been suggested that this is a common trait among lawyers.

Caroline's aim is to find ways to develop tasks that make students active participants in their learning and not merely passive recipients. They should be able to evaluate documents and engage in critical thinking. In order to tear students away from the strategic approach, it is important to use realistic examples early. So, in preparation for an IP question the students can be given a clause taken from an agreement and asked why the particular clause has been included. To answer the question they have to think critically.

Case studies are used as the basis for negotiation with the students working initially in pairs and/or groups. This type of work is embedded into the curriculum and gets the students to think creatively in order to find solutions. It teaches them client handling in that they have to prioritize the aims of the client, rank issues and decide what possible alternatives there may be.

In the preparation of a case study the tutor's role is to prepare the client's brief. It should provide an indication of the issues without being too explicit. For example, it may state that income generation is really important to the client, mention that there is a lot of competition, and describe the fact that there are free gifts available in the market that may reduce prices. In this scenario it may be asked, 'what will happen to royalties?' Students engage with these situations and enjoy the challenge, which gives them the motivation to think critically. There is a danger that in their enthusiasm they may become over competitive, but it is the tutor's job to monitor the group dynamics.

Outline drafting involves the students in looking at a whole document and evaluating it in groups. The students have to look at comparative precedents. They are not creating from scratch, but comparing the relative merits of different documents. The tutor has to

ensure that they find the correct documents and that the task is appropriate to their level. The success of the activity could be threatened by the limited experience of students so it may be necessary to explain key terms. Setting up such an activity may be initially difficult, but it makes assessment relatively easy. It can be done by requiring students to comment on a document in the exam.

Law Clinics are currently being investigated as a teaching tool by DeMontfort. The real-life model in which closely supervised students deal with genuine legal problems tends to be less relevant to IP, but this could be addressed by developing a simulated learning model in the form of an online environment with adaptive release of data. The students would have to decide what to do, make appointments etc... The tutor would just facilitate. It could involve group work, assessment and development of documents as well as meetings and discussions. It would have the advantage over real life clinics in that students would not need to be physically present, and it would be a way of getting many more students involved in clinical education.

This is definitely an interesting idea for the future of skills teaching, but it is still under evaluation particularly because it is both time intensive, and could potentially consume a lot of resources.

The Use of Posters as a Teaching Tool

Norain Ismail, (Newcastle Law School), (norain.ismail@ncl.ac.uk)

Norain Ismail read law and did her LLM at the International Islamic University, Malaysia. She is now a lecturer at Melaka Technical University of Malaysia, where she teaches public law. She plans to develop IP law there once she has completed her PhD at Newcastle Law School (IP aspects of nanotechnology).

Summary

Norain Ismail's presentation concerned the use of academic posters in the field of law. She began by describing the essential characteristics of a good poster, which should have a strong visual impact in order to attract attention, Poster design plays a vital role, with simple graphics being easier to understand and flow charts and diagrams useful to summarize results. The poster must be readable in three to four minutes so information must be brief and to the point.

The focus of the poster should be on the key ideas, with summaries explaining the essence of the research. These should be concise, clear and easy to follow. There should be a logical sequence of headings so that readers can skim them in order to get the gist. It should not be necessary for the researcher to have to stand by the poster to explain ideas. Rather, the poster should do all the talking until a reader decides to ask questions.

Where a number of people show interest in the poster, the researcher may give a brief presentation in response to their questions. In this way communication of ideas can be immediate and targeted at the particular concerns raised. It also advertises the research to others, giving researchers an opportunity to market their expertise.

Poster sessions at conferences also have the advantage of enabling a researcher to interact widely with people of very different backgrounds, not merely within the specific area of the research. This may offer opportunities for interdisciplinary cooperation.

There are certainly many other uses for posters in the field of law, and they have great potential as teaching tools. Even the challenge for law students to make a subject that is generally so textually based more visual could be a very useful exercise.

IP Teaching Kit: Presentation and Feedback

Noël Campling Director of the European Patent Academy of the European Patent Office, (ncampling@epo.org)

Noël Campling has been Director of the European Patent Academy in Munich since October 2006. The European Patent Academy coordinates the training offered by the EPO, promoting equal access to five principal target groups including academia. Immediately prior to joining the Academy, Mr. Campling was Director of Publications at the EPO in Vienna, overseeing the transfer of EPO products and services (such as the patent documents and bulletins) from paper to on-line and, from 1996 - 2000, was "Chef de Cabinet" for the EPO President. He started his career at the EPO in 1984 as an examiner.

Summary

Noël Campling opened his address by expressing the EPA's pleasure in the expansion of the European Intellectual Property Teachers' Network which, for the 2008 meeting, brought together speakers from different parts of Europe, including from Spain and Germany, extending as far as Turkey and even further to include a speaker from Malaysia.

He looked back 25 years to a time when the concept of patenting was much less widely understood. In contrast, to illustrate the greater awareness today, he referred to a well-known advertisement for a German luxury car which compares the number of patents filed on the Apollo rocket with those filed on the car, pointing out that there were ten times more patents filed on the car. Another advertisement proclaims that innovation is "in". These adverts are illustrative of the fact that the world has changed dramatically, something also seen in the fact that the EPO is currently struggling to cope with 230,000 patent applications a year whereas it was predicted that they would only be dealing with 30,000.

He praised Newcastle Law School for its active role in IP teaching, particularly through its doctoral courses and applauded the billboards advertising Newcastle University which

talk of developing a university campus for excellence and innovation. IP, he noted, is all about innovation and the EPO is a great supporter of it.

The European Patent Academy coordinates IP training activities in Europe targeting SMEs, judges, and patent professionals as well as academics. It is also developing an IP teaching kit which is aimed even more widely: at scientists, economists, management and business students as well as students of the arts and historians, among others. The consultants who are developing the teaching kit on behalf of the European Patent Academy are Nils Omland, who is based in Germany, and Duncan Matthews from Queen Mary, University of London,. The idea is to get all students thinking about IP, and to ensure a basic understanding across the board, raising awareness about how the IP system can be used to their benefit, as well as how it could, potentially, stifle their work. Ideally, IP teaching should be integral to all areas of study, not just law.

The concept of the teaching kit was born out of a stock-taking exercise which looked at the areas in which IP teaching was happening and others where it wasn't. It was found that while it was commonly taught in law faculties, in other subject areas, even those where it has obvious application, it was still a rather esoteric subject and usually taught as an elective. The teaching kit idea was a response to some interviewees questioning the suggestion of getting non-experts to teach IP.

Thus, the teaching kit is intended to be easy for non-specialists to use without modification. Having identified core knowledge elements, it will offer essential general knowledge, presented as short modules, 90 minutes long, in the form of power point presentations. There will be notes for the lecturer and supplementary material for students, with different modules directly targeting the needs of the different faculties.

The kit will be available online so that it can be accessed internationally, and there will be structured supplementary materials to provide more detail, as well as links to existing EPO online courses and other relevant websites including those of interest to IP teachers, such as IP4inno. It will be delivered, in some cases directly, by the EPO to students, but in others, via non-IP teachers. In other cases, it will be passed on by university associations or IP teacher networks supporting non-IP specialists in delivering

the content. Hopefully, in this way, the goal of educating all students in the essentials of intellectual property knowledge can be achieved.

Questions & Comments

Charlotte Waelde (University of Edinburgh) commented that IP teaching was frequently set in the market sector as exemplified by the grey window in Guy Carmichael's framework. She wondered to what extent the IP teaching kit would give an idea of the other 'windows' so that students were enabled to think about patenting in different ways. She further commented that there were questions about how best to commercialize student IP and noted that there were sensitive issues surrounding the question of ownership in the university environment. She wondered how it was proposed to deal with such questions over ownership, in particular how to deal with the relationship between student and teacher.

Noël Campling agreed that there was a tendency to concentrate on the market sector, but he didn't see this as a problem. If the teaching kit acts as a trigger for students to think more deeply, he sees that as a side-benefit rather than an actual goal. The main aim is to give the students essential practical knowledge which they can use.

Guy Carmichael (EPO) said that when he was an engineering student at Strathclyde in the late 70s/early 80s, he did have lectures in IP. But, he noted, a recent survey revealed that 70% of people with patent rights didn't understand what they had. They had no idea of the relevance of the territoriality of IP rights and were shocked to learn that a British patent had no relevance in China, for example. This is an unsatisfactory situation and clearly needs to be addressed.

Guy Carmichael responded to the point about ownership and the university environment by saying that the teaching kit was not intended to give students ammunition for an ownership battle against their teachers. However, he said, the ownership issue comes up at every European Academy workshop. It is a domestic issue with entrenched positions, in Europe; in some countries it is always the university that owns the work, in others it's the professor, in others the student. The EPO has no opinion about the

different national situations but he acknowledged that the situation was worth mentioning in the teaching kits in order to raise awareness. The important thing is that the teaching kit must be applicable in all countries.

Marie-Christine Janssens (Catholic University Leuven) added that there was a suggestion that according to best practice the university should hold the IP rights.

Rosa Greaves (University of Glasgow) said that her initial response to the IP teaching kit was that it looked too legal. She said that in teaching IP to non-law students it was important to attract the students' attention. She suggested using cases, such as the Windsurfer case that they can easily relate to, to make them realize that IP is applicable in their own world. Once the students can grasp that something is worth protecting they will be motivated to look for more information.

She further mentioned the lack of specialized IP judges in some countries, pointing to a lack of judicial training in IP.

Finally, she suggested that students should do a search to discover whether something has been done that might be useful to their research.

Duncan Matthews (Queen Mary, University of London) agreed with her suggestions and said that this was exactly the kind of approach they were working on.

Session 2
The Context of IP Education

Chair: Duncan Matthews, Queen Mary, University of London
(d.n.matthews@qmul.ac.uk)

Teaching IP in the context of the Bologna Process and Beyond

Adoracion Perez Troya (Alcala), (adoracion.perez@uah.es)

Dr Adoracion Perez Troya is a titular professor at the University of Alcala, Spain and Director of the Department of Private Law. She teaches financial and commercial law topics. Recently she organised Jornadas (research study days) on innovation and technology transfer.

Summary

Adoracion began her talk by explaining that the purpose of the Bologna process is to make the European Higher Education Area (EHEA) more competitive and attractive for European students as well as for scholars from other regions. A priority is for the system to be compatible and comparable with others. Thus, there is a need for quality assurance and mutual recognition of qualifications and periods of study.

In order to ensure recognition of qualifications there are two key tools: the European Credit Transfer System (ECTS) and the diploma supplement.

The Bologna process involves actors at all levels in the process of modernization and reform, from the European Commission the Council of Europe and UNESCO-CEPES to representatives of higher education and faculty and staff.

Of particular note are the Erasmus Mundus programme promoting the European Union as a worldwide centre of excellence in teaching and learning, the European Consortium for Accreditation and the Lisbon Strategy for Growth and Jobs.

The European Institute of Innovation and Technology (EIT) was recently established in 2008, 'to contribute to European economic growth and competitiveness...by promoting and integrating higher education, research and innovation of the highest standards' (Art. 3 Reg. (EC) No. 294/2008).

Knowledge and Innovation Communities (KICs) are integrated public-private networks that will be created in recognition of the knowledge triangle connecting higher education with research and business innovation. They particularly focus on the development of innovation-related skills at masters and doctoral level. These will be selected by the EIT governing board, which will propose seven year strategic innovation agendas, with an initial budget of more than 300 million Euros.

The EIT will encourage participating higher education institutions to award joint or multi-disciplinary degrees and diplomas reflecting the integrated nature of the KICs, under the EIT label.

University IP Culture and IP Education

Robert Pitkethly (University of Oxford), (robert.pitkethly@sbs.ox.ac.uk)

Dr Robert Pitkethly is a Lecturer in Management Studies (Intellectual Property) at Oxford University. His research interests comprise intellectual property management, business and technology strategy, intellectual property management, and international aspects of these, including Japanese Studies.

After graduating in Chemistry from Merton College, Oxford, he qualified and worked in both private practice and industry as a UK and European Patent Attorney. On a Louis Franck Scholarship, he then completed an MBA at INSEAD, where he gained a distinction. This was followed by a period in consulting, working for PA Consulting and the Mac Group (now Gemini Consulting).

He then returned to academia and completed an MSc in Japanese Studies at Stirling University followed by a DPhil at Oxford on intellectual property management in Japan and the UK before taking up an ESRC research fellowship at Cambridge's Judge Institute, working on the management of foreign acquisitions. Since 1997 he has worked as a lecturer at the Saïd Business School teaching Strategy and Intellectual Property Management.

Summary

Robert Pitkethly opened his talk by wondering what it meant for an organization to have a culture. He questioned how an organizational culture could be changed and how one could be created in a university. In this context he aimed to explore what contributes to an IP culture.

He noted that there are a number of different aspects of a culture, including artifacts as a visible representation of a culture, values which may be either tacit or explicit, and shared assumptions which may be largely taken for granted.

In order to discover whether a culture can be changed it is necessary to ask whether culture is what the organization IS, in which case it may not be possible to change it, or whether culture is what an organization HAS, in which case it may be controllable and, therefore, can be changed. The company Google, for example, changed its organizational culture by radically altering the furniture and colour scheme in its offices. But, Robert Pitkethly suggested that it's not enough just to change the colour scheme and that often the process of change is as important as physical changes. The important question is whether the changes will be accepted.

Some universities have changed the way IP is regulated and people have accepted the rules, but often attempts to change culture are not accepted quickly and become the subject of heated debate. What impedes acceptance of cultural change are fear, uncertainty and doubt, so there is a need for support both from the top of the organization and from the bottom, if clashes are to be avoided.

What is IP culture, and what happens if it is absent or imperfect? Robert Pitkethly used the example of penicillin which could not be patented in the UK where it was developed. In contrast the method for producing it in bulk, which was developed in the States, was patented and the developers there benefited from the invention.

In a contrasting example in the UK, cephalosporum C was patented, in 1917, and with the proceeds from royalties the E. P. Abraham research fund was set up and trusts established to support research in Oxford. The point is that by patenting it, the researchers maintained control over their invention. What they then did with that control was their choice, but at least the researcher in this scenario can choose.

An example of an imperfect IP culture can be seen in the case of the Cohen-Boyer recombinant DNA patent which couldn't get a patent outside the US because they disclosed before filing. This illustrates the importance of raising awareness of the requirement to file before publication. At the moment, only a tiny minority of small firms know how to do this.

The key elements of an IP culture are:

1. IP approval and engagement
2. Awareness of the system
3. Sufficient resources in the system

Technology licensing offices, support clusters, spin-out companies, IP administration within the university and IP education can all be harnessed in order to develop an IP culture.

While technology licensing offices may not make a significant financial contribution to the university, they can make sure that an invention is exploited successfully. The issue of ownership is key. Joint ownership is complicated and best avoided but at Oxford University a high proportion of revenue is given to the researcher, in the first instance, on the basis that there is less conflict if the researchers are better off.

Problems arise when the university doesn't have a track record of exploitation. A technology licensing office needs to be able add value to inspire confidence and this needs investment from the university administration.

Innovation clusters of companies that develop in close proximity to a university, for example Silicon Valley and the Oxford-Cambridge Arc, offer the benefits of greater IP awareness and availability of professional advisors. Spin-Out companies are a generally successful way to separate business activities from the core organization while retaining some control.

In conclusion, it is essential to involve the university administration in the development of IP culture. IP culture must involve top-down support as well as getting science faculty and others involved. It's necessary to motivate researchers to get involved with IP promoting activities and to convince them that an IP culture based on the exercise of control is consistent with academic ideals and in the interests of all.

Questions & Comments

Alison Firth (Newcastle Law School) noted that inventions have been percolating out of institutions, for example, in Canada. She wanted to know whether this was evidence of a lack of trust or of scientists wanting to keep inventions for themselves and whether there is any evidence of this happening here in the UK.

Robert Pitkethly answered that whether it happens or not basically depends on the contractual arrangements between industry and the university.

Immaculada Gonzalez (Cuatrecasas) wondered whether there was a difference between a spin-out and spin-off company?

Robert Pitkethly replied that they are just different terms for the same thing; companies whose shares are owned by the university and the inventor. The IP may still be held by the university.

Charlotte Waelde (University of Edinburgh) asked about conflicts of interest in the university context where the requirement not to disclose, necessary for the patenting process might conflict with what a university is all about—the dissemination of knowledge.

Robert Pitkethly said that when it comes to an academic working for a spin-out company, it is necessary to choose what you really are.

He went on to explain that there are some cases where a university may decide to have guidelines for licensing, in the case of pharmaceuticals, for example. The question raised is whether you decide to make sure a product is as widely available as possible or make as much profit as possible. But, if you have the ability to control the decisions as in the case of E.P. Abraham you have the option to decide that licensing freely is the best way to commercialize. Oxford University, for example, has a statement on licensing practice in relation to pharmaceuticals.

Teaching IP to Law and Business Students

Claire Howell (Aston Business School), (c.f.howell@aston.ac.uk)

Claire graduated in 1984 with an LLB. from University College Cardiff. Continuing her studies at the Inns of Court School of Law she was called to the Bar in 1985 as a Barrister of the Middle Temple. In 1994 she studied for an LLM in Commercial Law at Birmingham University.

Claire has taught at various law Schools including Cardiff, Birmingham and UWE Bristol. She has teaching experience at both undergraduate and postgraduate level of Company Law; Sale of Goods and Agency, Contract law, Employment Law and Intellectual Property Law.

Her research interests are in Company and Intellectual Property Law

Summary

Claire took a practical approach in her talk, focusing on her teaching at Aston Business School. The Business School is an important part of the university, and has recently received a great deal of publicity as a result of the success of one of its students, Alex, who reached the semi-finals in the television show, 'The Apprentice'.

IP is a core subject at Aston for students studying business, although it is a small part of their course. In the past, IP was only taught to students in the Law School as an option, so the students studying it were motivated and wanted to go into the subject in depth. But when Prof. David Bainbridge, at Aston, discovered a communication from the European Commission saying that all business students should be taught IP, he decided to implement it, making IP core for all business students.

However, undergraduate law students and business students need to acquire different skills. The aim is not to turn business students into lawyers but, rather, successful business people who understand IP. Indeed, business students tend not to be motivated to study IP and do not want to be lawyers.

The reason for teaching business students IP is to encourage them to embrace innovation, employ people, pay taxes and contribute to society. Birmingham is still a manufacturing town and in order to properly take advantage of this the students need to be able to understand the benefits and risks associated with innovation. They need to be able to protect their IP or at least to know where to go when there is a problem, and to understand what experts are telling them. If they know the basics, then they will know when they have a genuine problem and since they can do some of the preparation themselves, they can go properly prepared to a lawyer, if necessary, and so save themselves money. Ideally, their IP knowledge will stop them from getting into problems in the first place.

What do they need to know? As a minimum, they need to know about the creation, protection and maintenance of IP: whether rights need to be registered how not to infringe, and when to challenge.

The big question is how to motivate them. The students are not used to reading and writing, which is a serious drawback and they are scared of doing law. In particular, they are scared about how doing a law course with 30% of the grade allocated for essay writing which will impact on their degree grade average.

But, they just have to put up with this because IP is now a core subject.

Claire has discovered that the students are motivated by studying case law because they enjoy the stories and therefore remember them, and it is possible to make the testing easier by choosing to use a lot of multiple choice questions which they find easier and which tend not to reduce their grade. She also uses problem scenarios rather than more academic essay style questions.

Once the students are convinced that IP will help them, the motivation issue is largely resolved, but Claire has found that making IP a core subject is not the happy ending one might expect of the story. There are still problems, and despite IP being core at Aston, a

new course on entrepreneurship has just started containing no IP element. So, although progress has been made, the culture is not there yet.

Questions & Comments

Noel Campling (European Patent Academy) noted that Aston's approach corresponded strongly with the EPO's approach and that while Aston was focusing on business students, their approach could apply equally well in all other disciplines.

Claire Howell replied that the most important factor was to have a champion; someone with the power to implement change, like David Bainbridge at Aston. She also observed that the attitude of IP teachers towards non-law students was important. Sometimes she has observed a bit of a negative attitude to engineering students, for example.

Duncan Matthews (Queen Mary, University of London) thought that the term 'champion' was a useful one, and agreed that there was a need for leaders to bring IP into the mainstream of the university curriculum.

Charlotte Waelde (University of Edinburgh) remarked that there are not enough IP teachers to carry out teaching in all the different faculties. This needs resources and in this context a 'champion' is very important given the fierce competition for resources.

Rosa Greaves (University of Glasgow) said that it was all about money. If money was available from the EPO everyone would be offering more IP courses. She pointed to the way that courses in EU law had been promoted by the funding for Jean Monnet professorships.

Noel Campling commented on the fear that people have that time given over to teaching IP is time taken away from the 'real' subject. This is an attitude that needs to be overcome.

Howard Johnson (Bangor University) said that multiple choice questions are much better than essay style questions for testing engineers. In assessing engineering students' IP

knowledge through essay questions he experienced a 100% failure rate, on one occasion.

He also acknowledges that teaching 250 students at a time is a real challenge. Referring back to Caroline Cole's talk, he added that the idea of legal clinics was a fascinating one, but potentially very time-consuming and he wondered how receptive university legal advisory offices would be to answering queries from non-academics.

Session 3
Parallel Sessions

Group A
Teaching and Learning Environments

Chair: Ilona Cheyne, Newcastle Law School

(Ilona.Cheyne@ncl.ac.uk)

Rapporteur: Bronwen Jones, Newcastle Law School

(bronwen.jones@ncl.ac.uk)

Learning Methodologies as a Means and Subject of IP Law Teaching

Fernando Barrio (London Metropolitan University),

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Fernando Barrio is a senior lecturer in Business Law at London Metropolitan Business School, London Metropolitan University. He received both his MA and PhD from the Graduate School of International Development of the Nagoya University in Japan,

His main interests are in the relationship between law, new technologies and development from a global perspective. Much of his research is UK and USA based, due to pedagogical needs and personal interests, but there is also an important current stream dealing with Latin American issues, and the comparison between these different regions and jurisdictions.

Summary

Fernando Barrio explained that he had been searching for a technique to teach IP law to non-law students who don't really want to study IP. With students who need to learn about IP coming from increasingly varied backgrounds, including engineers, writers and publishers, musicians and producers, designers, biologists, businesspeople, consumers...and, ultimately, everyone, the problem is motivation. We know that students need to know about IP issues, but they are put off by uninspiring teaching and material that doesn't always seem relevant to them.

In this regard, Fernando understands why there tends to be a strong focus on the 'grey' area of IP and a tendency to disregard other approaches. Focusing on the money-making aspect of IP is a good way of getting students interested; although he concedes that it is important to raise awareness of other approaches, too.

On distance learning courses, in general, there is a heavy reliance on using technology to deliver the courses. He emphasizes that the technology does NOT replace teaching, and that it cannot replace studying. And, he accepts that learning technologies alone are

not capable of turning average students into high achievers. However, he has found a technique for getting the students more involved by using the technology itself as the starting point for inquiry into IP issues.

He considered what a class of 200 students from all disciplines, studying IP, would have in common and hit upon the fact that they all use the same virtual learning environment. As distance learning students they tend to use it very heavily for all sorts of reasons, including reinforcement, supplementary materials and revision. The students see this as their right; it is very important to them.

The virtual learning environment used by students at London Metropolitan University is Blackboard Vista. It is something they use every day, so Fernando draws their attention to the Blackboard patent (Patent Number 6,988,138). This gives the students a real context within which to consider patent issues. Thus, Blackboard itself becomes the teaching tool. By looking closely at Blackboard's patent issues the students can compare US and UK patent law. They can even take Guy Carmichael's coloured doors approach and consider in what ways the 'grey' approach and the 'red' approach interact. In the first instance the students can be told to assume that the Blackboard patent is valid, but at the end, they can be asked, 'what exactly is the reach of the patent?'

The students can study licenses, starting with the Blackboard license itself and ask, for example, what is the extent of the students' license to use Blackboard? They can also consider cross-border licensing and analyze the pros and cons of licensing in different ways. International issues can be raised, including, what implications there might be if you are using Blackboard in a non-IP friendly country. In this way, many issues can be raised and discussed, always in the context of the virtual learning environment.

Fernando has found this to be a very effective technique of teaching IP and engaging non-law students with the subject matter of IP.

Questions & Comments

Duncan Matthews (Queen Mary, University of London) asked whether Fernando had had any resources from the university to set this up.

Fernando said that he did it without any assistance, but he also noted that the London Metropolitan University is a centre of excellence for learning technologies and that there is support for some initiatives, but not all.

Charlotte Waelde (University of Edinburgh) said that at Edinburgh they had also been developing ways of communicating with students online. One approach involved considering the civil contingencies act and getting students thinking about how they would manage their education in the case of an outbreak of bubonic plague, given that they would be isolated and have to communicate online for a period of six months.

IPR Teaching in Turkey

Arzu Oguz (Ankara University), (oguzarzu@hotmail.com)

Arzu Oguz graduated from Ankara University Law School of in 1987 and went on to do an LLM in the Institute of Social Sciences at the University of Ankara in the field of private law. She began her PhD studies in Turkey but, after receiving a scholarship from the Turkish government went on to complete her PhD in Germany. She has been chair of the Center of Research and Application of Intellectual and Industrial Property Rights (FISAUM) since the year 2000, and was on the faculty board of University of Ankara Faculty of Law from October 2000 to October 2003. She has recently been appointed as the University's representative for both the Erasmus and Socrates Programs.

Summary

Arzu aimed, in her talk, to describe the situation regarding IP teaching in Turkey. She began by explaining that Turkey, like many other countries has only recently begun to appreciate the economic importance of IPRs. Consistent with this realization, Turkey has been updating its IP laws both in order to meet its international obligations under the WTO and TRIPS, and in particular to harmonize its IP laws in line with the EU as part of its candidacy for membership.

On the face of it, Turkey now has effective regulations to combat piracy, for example, but in reality enforcement of the regulations is inadequate. Complaints to both the civil and criminal courts regarding IP infringement are on the increase, but problems with the court system, in particular the lack of judges trained in IP, means that there are long delays. Arzu argued persuasively for more in-service training for Turkish judges.

She also complained of a low level of awareness among consumers who, she says, are happy to buy pirated copies of products. To combat this, she would like to see IP taught as part of the school curriculum from primary school onwards as well as in law faculties.

Currently in Turkey, IP courses in law schools teach copyright law as a compulsory subject but ignore patent law completely. Some engineering faculties teach design rights and patent law but Arzu feels that more extensive IP courses should be compulsory in all science faculties.

However, this is hindered by the lack of competent teachers of IP. There is little academic backing for IP as a discipline and there are no LLM or PhD courses in the area, which results in a vicious circle. A lack of training opportunities results in an absence of academics and few, if any, courses.

Ankara University, however, with state backing, set up a research centre (FISAUM) for the study of industrial and intellectual property, in 1997, within the faculty of law. It carries out a lot of activities with the aim of raising awareness of IPRs both among the public and specialists. Activities include arranging conferences and symposia, supporting research, arranging both short and long term training, publishing information on IPRs in all forms, and cooperating with national and international organizations. The research centre has brought a large number of international speakers to give seminars, participate in conferences and deliver courses in IP to both public and private bodies, including the Ankara Bar.

However, this is not enough, in Arzu's opinion. None of the courses are compulsory so they only reach a few, interested individuals. She would like to see IP becoming a core part of university courses. There needs to be more attention to teaching methods. In order to address the problem of activities being solely centered in Ankara, distance learning courses should be set up. Indeed there is a strong need to spread IP education beyond Ankara to include other regions and cities, but there are budgetary constraints. FISAUM's financial arrangement with Ankara University means that it lacks independence, despite bringing money into the university, and is held back by bureaucracy. Ideally, Arzu would like to see greater cooperation between institutions in Turkey in order to further IP education together.

Questions & Comments

Duncan Matthews (Queen Mary, University of London) asked how Ankara University finds people willing to teach IP in the different university faculties.

Arzu replied that they generally invite lecturers from abroad. Ideally lawyers should be encouraged to continue their academic education so that they can pass on their expertise. This is almost impossible at the moment since there is no LLM or PhD education in IP. Patent attorneys tend not to have PhDs so they can't teach at universities.

Howard Johnson (Bangor University) said that he understands that in the light of the rigidity of the legal education system law teachers seeking promotion have to either focus on civil law or commercial law in order to get on. He suggested trying to integrate IP more in the commercial law department instead of aiming for freestanding IPR courses.

Fernando Barrio (London Metropolitan University) wondered whether, since business associations are already established in Turkey, it would be possible to collaborate with them.

Ilona Cheyne (Newcastle Law School) asked whether copyright law was taught as a compulsory subject in the faculty of law.

Arzu said that it was always elective. There is no patent law teaching and trade marks are taught within the commercial law department.

Ilona asked why there is such an emphasis on copyright law.

Arzu replied that it is because copyright has been established in Turkey for longer and is therefore seen as more important than other forms of IP. Now that Turkey is an industrializing, developing country patent law is becoming more important.

Chris Wadlow (University of East Anglia) commented that often the emphasis on copyright is a reflection of academics' self-interest and that patents are superficially more challenging for academics to engage with.

Session 3

Group B

Reaching The Diverse Audience

Chair: Claire Howell, Aston Business School

(c.f.howell@aston.ac.uk)

Rapporteur: Alison Firth, Newcastle Law School

(Alison.firth@ncl.ac.uk)

The Experience of Mixed Classes and Intensive Modules—Lessons Learned

Wolrad Prinz zu Waldeck und Pyrmont (Munich Intellectual Property Law Centre (MIPLC)), (w.waldeck@mipcl.de)

Wolrad Prinz zu Waldeck und Pyrmont studied law at Heidelberg, Munich and George Washington Universities. He has been a researcher at the Max Planck Institute for Intellectual Property, Competition and Tax law since 2003 and Munich Intellectual Property Law Centre (MIPCL)'s Program Director since 2004. His focus is on patent law.

Summary

The MIPLC's LLM program is a joint venture between Max Planck, George Washington, the Technical University of Munich and The University of Augsburg, which awards the degrees. It is unique in Germany in awarding an LLM to non-law graduates. Of the 30 students admitted each year about 60-70% are lawyers, the rest non-lawyers, with some patent attorneys who have been working in IP. To date the non-lawyers' average marks have been slightly higher than the lawyers'.

Both students and teachers are heterogeneous, with a mix of teaching and learning styles. Wolrad took us through an interesting series of slides giving examples of this diversity. The student selection process is intensive and looks for high conceptual and analytical ability. Selection includes the use of face to face interviews as well as interviews by telephone; sometimes interviews are conducted by alumni or by visiting academics in far places.

The students' potential is realized and their different backgrounds leveled by a combination of:

- introductory skills courses, so that common law students gained an understanding of civil law approaches, and vice versa, case analysis, statutory interpretation and legal writing;
- one-to-one tutorials
- shared offices (4 to a room, mixed backgrounds) for mutual learning and support

- intensive modules with immediate testing but learning reinforcement throughout the programme
- wide range of options

After slides showing us how the programme builds up, layer on layer, the seminar was open for discussion.

Questions & Comments

Robert Pitkethly (Oxford), pointed out that IP attorneys act as tutors at the European Patent Academy. He wanted to know how outside people are used at MIPLC.

Wolrad answered that students have the same tutor for all subjects. The tasks are devised by the professors, who brief all the tutors. Often there is a recap with the professor.

Jonathan Griffiths (Queen Mary, London University) wondered about option numbers – what if only one student chooses an option?

Wolrad replied that options are run when ten or more students choose them, and that classes tend to have an average of 15 students.

Postgraduate IP at Nottingham Trent University

Chris Ryan, Nottingham Trent, (chris@ryanlaw.co.uk)

Chris Ryan spent 28 years as partner in the London Office of Norton Rose (Solicitors). He has been a part time consultant at Nottingham Trent University since 2003. He now combines teaching with a part time role as Deputy Chair of Information Tribunal and as a sole practitioner providing consultancy to patent attorneys undertaking IP litigation.

Chris gave an interesting account of experiential learning. Nottingham Trent University offers an LLM in intellectual property litigation for Members of the Chartered Institute of Patent Attorneys and of the Institute of Trade Mark Attorneys seeking to qualify for a litigation certificate, giving rights of representation in IP matters. These are experienced attorneys, highly qualified and knowledgeable about intellectual property, who need to gain the skills to conduct litigation in the courts.

The course is taught largely over intensive long weekends. Notional law firms are set up and the students start by practicing client interviewing (with actors), pleading and disclosure matters. They move on to matters such as expert evidence and end up presenting a trial to a 'judge'.

These techniques are now being used to train young solicitors, who have typically done their training contracts and are about to join an IP department. Thus, experiential learning is being used to teach the substantive law as well as the skills. Experiential learning is inefficient for information transfer, so there is a lot of self-study in the form of pre-reading and electronic self-testing. However, topics are refreshed, reinforced and deepened as students revisit them.

Groups of up to nine students and a facilitator engage in problem solving. The facilitators also take plenary sessions. Initially the traditional divisions of IP are ignored. Lectures are interposed and after about four to six weeks the students return to carry out a patent or trade mark litigation project, with some advocacy. Four to six weeks later they attend a three day unit on non-contentious work such as negotiating and drafting a licence,

company acquisition/due diligence. Market research suggests that the firms want a practical appreciation of IP law – what is significant and relevant to a particular case, what is a deal-breaker?

A final two day “mop-up” session includes some of the more challenging topics in IP, such as intensive examination of patent claim construction, jurisdiction/applicable law and competition law and tax matters. Contentious exercises are supported by practicing IP barristers and mediators, non-contentious by solicitors.

Although effective, experiential learning is resource-heavy in terms of facilitators and requires them to resist the temptation to instruct – a challenge for many lawyers. There are also problems of firms allowing insufficient time for preparation and of fatigue amongst the learners. Students tend to wish for precedents and firmness is required in resisting this. The alumni are keen for follow-up events, summer schools, and Chris hopes to be able to join up with similar groups across Europe to gain a comparative perspective

Questions & Comments

Robert Pitkethly, (University of Oxford), asked about the selection process.

Chris Ryan answered that the Patent Attorneys were initially very senior. The young lawyers are newly qualified.

Jonathan Griffiths (Queen Mary, University of London), asked whether the students' different backgrounds presented a problem.

Chris Ryan said that this didn't seem to be an impediment to teamwork. Furthermore, the young lawyers from smaller firms were usually very bright, had wider experience in training and therefore more commercial 'nouse'.

Alison Firth (Newcastle Law School) wanted to know how law firms can best be persuaded to allow more time.

Chris Ryan considers the best way to be by personal contact. And, he added, also by discouraging students from working on their 'Blackberries' whilst attending the course.

After further informal discussion, delegates then rejoined group A for Dr Waelde's paper.

Problem-based Learning over Space and Time

Charlotte Waelde, (Charlotte.waelde@ed.ac.uk)

Charlotte Waelde is a founder member and co-director of SCRIPT: the AHRC Research Centre for Studies in Intellectual Property and Technology Law. She is Programme Director of the LLM in Innovation Technology and the Law at the University of Edinburgh and of the innovative LLM delivered by distance learning. She has recently been elected to a chair in intellectual property law at Edinburgh University.

Her research interests revolve around the relationship between intellectual property and digital technologies most notably within the fields of copyright and trade marks. Her work reaches out into other domains such as human rights, competition law, international private law and the regulation and promotion of new technologies more generally as they intersect with her core interests.

Summary

Charlotte Waelde's focus was on practical, problem-based learning in an on-line environment. In particular she explained how a 'wiki' could be used as a teaching tool. She found that she had to explain the concept of a 'wiki', which she described as a way to develop collaborative information on the web. It gives the opportunity to add views, make corrections and so on, and is most clearly exemplified in the popular website wikipedia, which most people are aware of.

She has developed on-line teaching techniques to deal with three new IP-related LLMs run over a 10 week period for 20 credits. Over this period it is possible to get a sense of real time in a business context, through physically orientated case study. With the students being physically separated from each other and from the course this is also a way to bring them in.

So, the students have to manage an IP audit and work out how to protect a patent. The case study is put on a 'wiki' and the students have to use their knowledge practically.

She is not teaching substantive IP law, but rather focusing on practical application. Once the students have read the facts of the case study, they give advice in their allocated roles: client, advisor, supplier, competitors.

Assessment of the module is linked to the students' ability to apply their knowledge and manage the IP situation, and marked on the basis of their participation and contributions. The students get 10% for participation in the case study and 10% for a reflective piece of work. The students have responded positively in feedback to this approach. They liked the practical approach and felt they learned a lot about the practice of IP law. They also enjoyed learning through role-play. Time was a bit of an issue, though, with some students wanting more time, and group work is always controversial, with some students enjoying it more than others.

In the end, the 'wiki' was used more as a discussion forum than a virtual learning environment, but it's questionable whether that really matters. Ultimately, Charlotte Waelde believes the pedagogical approach should determine the use of the technology and not the other way round. The approach worked very well.

Questions & Comments

Dwijen Rangnekar (University of Warwick) wondered whether the tutors had to intervene at all, and whether cultural differences were an issue in participation

Charlotte Waelde said tutors don't intervene and once the environment is set up the tutors should do nothing to force the students to engage with the process. Negotiation between the students was their issue, not the tutors. They had never had any problems with cultural differences affecting participation.

Fernando Barrio (London Metropolitan University) wanted to know how this part of the course related to the rest of the assessment.

Charlotte Waelde responded that they always assess contributions to the discussion at either 20% or 10%. There could be 10% for the discussions and 10% for the final result.

A task might involve trade mark procedures and difficulties in the registration process. The students would have to advise clients how to get over the problems.

Posters could also be used for assessment. This referred back to Norain Ismail's talk earlier.

Catherine Colston (University of Strathclyde) asked how many students were involved, typically.

Charlotte Waelde said that there were 46 students going through the LLM with 18 doing the Managing IP module which she acknowledged was a lot for one academic to deal with. Twelve, she thought, was an ideal number.

Session 4
How Far do You Go?

Chair: Christopher Wadlow, University of East Anglia
(c.wadlow@uea.ac.uk)

(The session began with reports back from the parallel sessions by the rapporteurs: Prof. Alison Firth, and Bronwen Jones)

**The Protection of Minor Inventions in the European Union – the Pedagogic
Difficulty of Placing this Matter in a Comparative IP Context**

Immaculada Gonzalez Lopez (Cuatrecasas, Alicante),

(Immaculada.gonzalez@cuatrecasas.com)

Dr Inmaculada Gonzales Lopez practises as an attorney with the Intellectual Property Group of Cuatrecasas law firm, in their Alicante Office. She contributes to the 'Magister Lucentinus' programme at the University of Alicante.

Summary

Immaculada's talk was about using the protection of minor inventions to encourage students to do IP research.

She points out that minor inventions are those which could not get a patent because of lack of an inventive step. However, many are nevertheless important and deserving of protection. Therefore, mechanisms, most commonly the utility patent, but also other solutions, have been developed to protect such inventions.

A European Commission Green Paper in 1995 proposed a Council Directive on the protection of minor inventions, but so far nothing has been done about it.

Article 1 of the proposal provides a definition from which it can be seen that there seems to be a similar approach in all the EU countries looked at, raising the possibility of harmonization in this matter.

At this stage, Immaculada reminds students of the basic requirements of patent protection and asks them to consider three questions in the context of protecting minor inventions.

- First, whether it is always possible and/or necessary to get a patent to protect technical inventions; if not,
- In which cases is patent protection inadequate to protect inventions; and finally,

- What are the different solutions from the Member States to overcome these problems?

Immaculada gets her students to do a country by country analysis to extract the main features of utility model protection in Europe. This motivates students to do the research and gives them a reason to take a comparative approach.

She then asks the students, 'why should an alternative to patents exist?' and further, 'why should it exist?'

Questions & Comments

Chris Ryan (Nottingham Trent University) asked whether practical advantage as contemplated as a test for minor inventions would be applicable to industrial application, or whether it amounted to a reduced inventive step test.

Immaculada replied that it was to be applied instead of the inventive step, meaning that if there was insufficient inventive step it would still be possible to offer some limited protection if the inventions gives a practical advantage. However, she conceded, exactly what practical advantage means is still unclear.

Howard Johnson (Bangor University) asked why the European Commission's proposal had, 'died a death', and whether it had a prospect of revival.

Immaculada answered that the lack of a clear definition of the meaning of practical advantage could be a reason why the European Commission's initiative has proved unsuccessful. She felt that the Commission's approach had been incorrect and that it was not viable to attempt to harmonize in this area before there was a clear explanation of why it should be done, and exactly how to do it. In addition, it was not feasible to have a harmonized community utility model before there was a European patent. It is important to concentrate on sorting out the Community patent first; the utility model could come later.

Robert Pitkethly (University of Oxford) inquired whether Immaculada had looked at Japan, since they had a utility model law but were giving it up.

Immaculada admitted that she hadn't looked at Japan yet as she had been concentrating on the EU countries which, in the light of enlargement was quite an extensive study so she hadn't yet extended the analysis. However, she was aware of the Japanese utility model law and would be looking at it in the future. She was also keen to study why neither the US nor the UK had developed a utility model.

The Role of 'Ancient Regulation' in a Copyright LLM Course

James Griffin (University of Exeter), (j.g.h.griffin@ex.ac.uk)

James Griffin, LLB (Warwick), LLM (Warwick), PhD (Pending, Bristol) is a law lecturer at the University of Exeter. His main area of research relates to the effect of Intellectual Property Laws upon digital technology. He has published articles on the role of authors in the digital environment, and presented a number of papers on the potentially restrictive effects of digital technology over individuals

Summary

The context for James Griffin's talk is the teaching of an LLM course in Copyright which is designed primarily to consider issues relating to digital copyright.

He began by saying that it has been necessary to decide what to provide in terms of teaching the basic elements of copyright since the scope of digital copyright differs from that of traditional copyright. In order for students to appreciate the differences, James has found it useful to work through the historical developments in copyright over time, beginning from works created by pen and paper up to computer code and digital works.

He explained that in the traditional system books are distributed through a publisher to students who read the book and then if they can, he said, tongue firmly in cheek, they reproduce every page in the exam. Here, the issues raised are to do with substantial similarity in the reproduction.

When it comes to computers, the issues are different. Most things on the computer are copyrightable: the computer code is copyrightable; Microsoft Word is a copyrightable programme with which copyright works are produced; copyright computer games lead to other copyright works.

What is significant is the ease with which reproductions can be made, or accessed across the internet through file-sharing networks such as Grokster among others (Grokster itself is no longer available since the US decision making its use illegal).

The question is one of control. Digital rights management operates at different levels to restrict reproduction and the ability to access works. The traditional approach to publishing seems outdated in this context. One digital rights management measure involves obtaining a DVD logo from the DVD licensing authority to guarantee a genuine copy. Another approach involves using code to restrict the ability to make copies. Codes can be broken, however, and hackers become skilled in circumventing the attempts to restrict access so it is still possible to find hacked copies of DVDs, or to find a circumvention programme.

These are new developments that did not exist with older kinds of works.

Studying copyright history is used to examine the 'architecture' of the works (in the sense described by Lawrence Lessig) to try to understand exactly what has changed and to discover whether we are going far enough to address the shift in copyright 'architecture' that has happened in the digital era.

James acknowledged that there are problems drawing parallels with traditional copyright but finds it useful to look to the basic principles in the Statute of Ann, the collapse of the previous licensing system and the demise of bookseller monopolies. He looks even further back to Roman times and the prolific book trade that was then spread throughout the Roman Empire. The Romans had a complex system of distribution and regulated the use of works by contract.

The 'architecture' of the Roman system required the availability of slaves and of raw materials (paper and ink). If one element was restricted there would be an impact on the availability of works.

James made an analogy between the Roman situation and digital rights management today. The question, he believes, remains the same. To achieve an appropriate balance,

it is necessary to determine exactly which elements should be restricted and what should be freed up.

In the 18th century case of *Donaldson v Beckett*, Lord Camden referred to fundamentals of knowledge to which everyone should have access. Today, we face the same issues: determining what constitutes copyright protection and what is the correct breadth of copyright protection. Examining the historical precedents may help us to decide whether the traditional view of copyright is sufficiently broad in scope to deal with digital works or whether we need to take a different approach.

Questions & Comments

Duncan Matthews (Queen Mary, University of London) asked how well this approach goes down with the students.

James Griffin said that they accepted it without problems and treated it as an integral part of the course.

Duncan Matthews asked how James thought the approach enhanced students' learning experiences?

James thought it helped the students to think a bit more broadly, 'outside the box', and encouraged them to do more research.

Alison Firth (Newcastle Law School) wondered whether the digitization programme would help with this approach or whether, perhaps, it does not go back far enough.

James said that a lot of the earlier material has not yet been written about so this is an area which requires further research.

Rapporteur's Summary of Outcomes

Throughout the workshop there were frequent references to Guy Carmichael's four scenarios. Described variously as doors, windows and rooms, it was nevertheless immediately clear that when someone referred to a grey scenario that they were talking about money and market forces, a red one was geo-political and so on. This illustrates their success as a tool for generating discussion and formed the backdrop for the entire workshop.

Widening the reach of IP teaching

A major theme of the workshop was how to widen the reach of IP education to embed IP in all disciplines. The challenges involved in achieving this permeated many of the presentations. Innovation is a priority across Europe and, with major initiatives promoting IP and forging networks to connect higher education and research with business, the potential exists for making sure that all students are taught at least the basics. However, there may be a need for some cultural adjustment which will need support at all levels. The idea that there was a need for 'champions' to promote an IP culture was one recognised by all.

Motivation

Getting IP accepted as a core subject does not immediately solve all problems. There are differences in teaching IP to motivated law students who have chosen to study IP and teaching non-law students for whom it is compulsory. Students and faculty alike may see IP as a distraction. The IP teaching kit will be an excellent resource for both law and non-law students, but it will be necessary to ensure that the materials are appealing in order to encourage students and teachers to engage with them.

Activities

It is almost inevitable that this will lead to a focus on 'grey' door motivation. When the students can see material gain as an outcome, they tend to be more enthusiastic. Although the intention, in teaching IP, is not to encourage litigious students to take on their teachers and universities, they can be made aware of the fact that if they are able

to ensure that they have ownership over their inventions, they can control how they are used.

It is important to keep activities realistic, starting from what students know and providing guidance that will ultimately help them to handle real-life situations. Thus, simulated situations and role play based on case studies, with clearly outlined tasks are successful approaches. These work online as well as in the classroom. The online environment can be used to advantage in that the separation in distance and time it necessitates are similar to a business context. The idea of having online IP simulations in the style of law clinics was recognised as an excellent one, but it will need a lot of resources to implement.

Learning Styles

It is necessary to accept that there is a range of learning styles and that the strategic learner who just wants to know what's in the exam may predominate. However, it may be that in changing economic times, students will be looking to gain practical skills that they can use. The teaching of skills may, therefore, become increasingly important.

Preferences and dislike of particular teaching methods will always be an issue. Some students love and others hate group work, for example.

Assessment

The type of assessment suitable for law students may differ from the approach needed for students of other disciplines who may be less comfortable with essay style questions. In testing non-law students on the essentials that they need to know, problem scenarios and multiple choice questions tend to be preferred.

Resources

Finally, it comes down to money. The resources available dictate, to a large extent, how much can be achieved; the amount of teachers trained, class size, and the technological tools available.

Next Steps and Closing Remarks

Maciej Barczewski of Gdansk University reminded the EIPTN participants of the ATRIP meeting in on 21/23 July, in cooperation with the Max Planck Institute. He recommended those who were interested to get in touch and send a CV, saying that there was a simpler procedure for participating than previously.

Duncan Matthews (Queen Mary, University of London) pointed out the need to answer the same questions as last year, at the end of the meeting, to keep updated on how things are going.

The questions include: asking whether the Network is useful and how best to build for the future. Can closer links be forged with ATRIP, for example, bearing in mind that the two groups have quite different aims? EIPTN is European and focused on multi-disciplinary teaching but would like to cooperate with ATRIP.

The question of whether the EIPTN should be developing a more multi-disciplinary profile to include different approaches was raised again, as was whether the European dimension should be further developed. Last year the meeting participants were very much in favour and there have been developments in this direction.

In addition to the annual workshop, ongoing network mechanisms are still developing and a dedicated network is proposed.

Duncan further proposed that subject to funding, Queen Mary, University of London would be prepared to host the event next year.

Jasem Tarawneh (University of Manchester) asked whether the timing of the EIPTN workshop might be an issue to look at again given that the date might be good for the UK, but may not fit in with exam schedules in Europe.

Marie-Christine Janssens (Catholic University, Leuven) said that the timing was right for academics from Belgium because the date was immediately after the exam period but before people disappeared for their annual vacations.

Also, as a member of ATRIP she commented on her surprise at discovering the EIPTN, which, she said was quite distinct from ATRIP and avoided overlap. She felt that it was important to keep the EIPTN multi-disciplinary and that it would be a good thing to bring in science and engineering specialists to discuss how IP teaching could be integrated into their curricula.

Claire Howell (Aston Business School) said that she, too, favoured the multi-disciplinary approach and also said that she was keen to see interactive features developed on the website. However, she was aware of funding issues.

Catherine Colston (University of Strathclyde) suggested a blog.

Marie-Christine Janssen agreed that a blog would help because it was necessary to make the website interactive in order to maintain interest.

Catherine Colston suggested putting the slides from this workshop on the website.

Duncan Matthews said that he would put the slides on the website to download, as well as the report.

Dwijen Rangnekar (University of Warwick) suggested bringing in more people from other disciplines in the social sciences to see how they handle IP issues. He also wondered whether some changes to the format of the workshop might be considered such as having round table discussions in one session instead of having all sessions in lecture format.

Edward Humphreys (Jonkoping International Business School) thought that it might be a good idea to have a repeated theme or themes each year focusing on fundamentals and best practice, instead of always having to find a new angle.

Howard Johnson (Bangor University) thought that a focus on PhD supervision might be a good idea and that research students could be encouraged to come.

Duncan Matthews agreed that these were all interesting ideas to take forward, and asked participants to fill in their evaluation forms to provide helpful feedback to the European Patent Academy as well as any further suggestions for the next workshop.

Alison Firth (Newcastle Law School) closed the session with thanks to everyone for participating in such a stimulating and successful workshop.

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