



NEW Book Review

page 3

Confidentiality: it's all OK! now

page 4



ACROSS THE POND

page 5



News from the regions

page 6



European Patent Office Celebrations

page 7



Events Diary

Forthcoming meetings 2007

page 8

New Stance Taken by Drug Company in Dispute with Third World Over the Price of Medicines

Abbott has recently altered its approach in the face of much media interest in its dispute with the Thai Government. The dispute concerns the price of two patented drugs which the government claimed was too high for its health service to afford. As a result the Health Ministry announced the possibility of issuing licences to generic companies enabling them to produce the patented drugs at a cheaper price for the Thai market.

In response Abbott has agreed to drastically reduce prices of their patented version of the drug. It will be producing the drug at a much lower cost than any rival generics company, thus removing the need for the extra licences. However, it is unclear whether the government will decide to cancel its plans to issue the licences.

A statement released by Abbott sets out the new pricing structure. It shows that countries classed as low and low-medium income will now be charged \$1000 per person per year ("pppy"), a massive reduction from the original \$2200 pppy. Interestingly, Abbott has not altered its position with regards to seven new drugs which it has stated it will not release on to the market in Thailand as a result of this conflict.

The medicines for which the licences are to be granted are the AIDS drug Kaletra produced by Abbott and the heart drug Plavix produced by Bristol Myers Squibb ("BMS"). Both of these products are still patented and the issuing of these licenses would be contrary to international trade laws. The Thai Government, however, is relying on one of the exceptions provided in the Trade -Related Aspects of Intellectual Property Rights Agreement ("TRIPS Agreement") of which Thailand is a signatory.

Under Article 31 (b) it states that

"such use may only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. **This requirement may be waived by a Member in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use.** In situations of national emergency or other circumstances of extreme urgency, the right holder shall, nevertheless, be notified as soon as reasonably practicable. In the case of public non-commercial use, where the government or contractor, without making a patent search, knows or has demonstrable grounds to know that a valid patent is or will be used by or for the government, the right holder shall be informed promptly;"

There is much controversy over what constitutes a national

emergency. However, it has been agreed that each member has the right to determine this. It was also noted that AIDS/HIV epidemics would be considered public crisis

It is important to note that there is also a restriction under Art 31(f) that

"any such use shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use;"

This prevents governments granting licenses then selling the drugs abroad and making a profit at the patentor's expense.

The Thai Government argued that as the estimated number of people in 2005 in Thailand living with HIV/AIDS about 580,000¹ there is a national crisis so they are, therefore, permitted to issue licenses to generic producers.

Similar arguments were used by the Brazilian Government in 2001 when it suggested that its Health Laboratories should produce a version of Roche's patented AIDS drug and by the South African Government, also in 2001. Eventually, as here the pharmaceutical companies were forced to reduce the price of their medicine.

Thailand's current stand against the drug company may herald a new wave of disputes in this area as it has recently been reported that Brazil plan to issue licences for the production of generic versions of Merck's HIV drug Sustiva which is also still under patent protection. It is claiming that it should be charged a much lower rate for the drug one similar to that which Thailand is charged.

Although, the arguments used by the Thai government have been used before in relation to AIDS drugs, this will be the first time that patents relating to drugs for conditions such as heart disease have been challenged. BMS has still to comment on this as Plavix, its drug, which is used in the treatment of heart disease, is one of the drugs that is threatened.

It seems as though Thailand is following Malaysia's lead in this controversial area. This country's approach to the enforcement of intellectual property is particularly relaxed and under the current licensing laws the general rule is that technology licences should have a maximum initial duration of 5 years at the end of which the licensee should be free to use the technology without making any further payments. During that 5-year initial period the Malaysian Government discourages lump sum payments and royalties are particularly low. It may be possible to negotiate different terms, but this is what is generally available. Compare this to the position taken by Singapore another country in the region. Here patent law is strictly adhered to and as a

continued on page 2 >



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President's Diary



IPO? For what do those initials stand? Well, in my youth, and with memories of an Ealing Comedy, they stood for "Impersonating a Police Officer". In my thirties their meaning had changed to "Initial Public Offering". Ron Marchant, the outgoing Chief Executive of the Patent Office announced that from 2 April 2007 the Patent

Office will be known as the "UK Intellectual Property Office (UK-IPO)", so that is what the initials will mean to me henceforth. The change reflects the wide range of intellectual property services now offered, going beyond the granting of rights and including being the Government Agency charged with implementing the majority of the Gowers' recommendations. I also take this opportunity to applaud what Ron Marchant has achieved during his tenure and to welcome Ian Fletcher as the new Chief Executive, bringing varied experience and an international perspective to the UK-IPO from his career at the DTI and before in the New Zealand diplomatic service.

Whilst on an international theme, if any members of LES Britain & Ireland have high level contacts who may input to the deliberations of the United Nations Commission on International Trade Law (UNCITRAL) on 2nd July in Vienna, then now is the time to mobilise them. Succinctly, in an attempt to "promote the availability of credit at more affordable rates across national borders" by the Convention on the Assignment of Receivables in International Trade, UNCITRAL has, potentially, made it possible for sub-licence income to be

used as collateral for a loan despite any licence terms precluding this, and with the possible result that, on default, a bank may take all the revenues that should have flowed to the licensor. For further details, please see Ben Goodger and Patsy Day's excellent article in *Managing IP* of July/August 2005.

Following up on the interest shown at the Savoy Lunch in the challenges of developing a Sustainable World, a new group has been initiated: the "Special Interest Group in Technology Licensing for Renewables and Industrial Biotechnology". This is a joint venture between LES B&I and the DTI-funded knowledge transfer network "Bioscience for Business". This initiative will be led by Meredith Lloyd-Evans (mlloyd@biobridge.co.uk, telephone: +441223 566850) and he is looking forward to hearing from others in LES who wish to develop this area.

The two recent London evening meetings have concentrated on different aspects of the valuation of Intellectual Property. Following a short and successful EGM at the Brentford offices of GSK on 21 March, Val Thorn and Rick Mitchell challenged a number of established valuation practices and showed where their research leads them, particularly towards Value Road Mapping in a talk entitled "Appraisal and Valuation of Technology". Kelvin King spoke at the 17 May meeting at Linklaters on "Valuing your core assets - the tricks of the trade", drawing upon his over 35 years of varied experience in valuing intangible assets and Intellectual Property. If you come across speakers that you believe your LES colleagues would benefit from hearing, or if you have suggestions on topics for which you would like us to find speakers, please let me or Nigel Jones know.

Finally, you will recently have received the flyer for our Annual Conference in Dublin. The full brochure will be out before the summer break, so please book early and look forward to an excellent and enjoyable meeting.

Martin Sandford President LES B&I

IPRinBusiness

- 1. Communication on enhancing the Patent System in Europe (03/04/07).** Communication from the Commission to the European Parliament looks at revitalising the debate on the patent system in Europe.
- 2. European Commission publishes (04/04/07)** a set of FAQs and a Green Paper on knowledge transfers between research institutions and industry.
- 3. Copyright Licensing Agency (CLA) confirms the distinction (24/04/07)** between the photocopying and scanning licences granted to the NHS and Higher Education Institutes.
- 4. The European Parliament approves (25/04/07)** the European Commission's proposal for a Directive (with significant amendments) to harmonise national laws in respect of criminal penalties for IPR offences.
- 5. IPO (UK Intellectual Property Office) launches IP Insight (26/04/07)** a monthly electronic newsletter with the latest news on intellectual property aimed at small and medium sized enterprises.
- 6. IPO publishes its first UK IP Awareness Survey (26/04/07).** The Survey reports that many small businesses are unaware of IP and are potentially missing out on income from the exploitation of their IP.
- 7. US Supreme Court hold copies of software made outside of the US do not infringe US Patent (30/04/07).** This decision reverses the decision of the Federal Circuit that copies made outside of the US were infringements of the software patent.
- 8. European Commission publishes (02/05/07)** draft guide to IP rules for Framework 7 projects. The draft gives participants more freedom to agree on how research results should be commercially exploited.

Monitored by **Dr Hayley French**
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For further details on all of the above please visit: <http://www.les-bi.org/>

< continued from Page 1

result patentees, in particular, pharmaceutical companies have flocked to the area to take advantage of this and the government subsidies which are also available.

The fact that Abbott are still threatening not to release new medicines in Thailand may indicate a new stance being taken by the drug companies. The forced reduction of drug prices by the use of the threat of generic licensing may in fact be counter productive. It may only solve problems in the short term, leading drug companies to reduce expenditure on Research and Development especially in relation to diseases which only occur in the third world countries. It may also mean that pharmaceutical companies do not bring any new drugs

onto the markets in these jurisdictions, drugs such as the new form of Kaletra which does not require refrigeration, a quality essential to countries with hot climates such as Thailand. It is still to be seen whether this position will change if the Thai Government decide not to issue any licences but ultimately, in the long run, Thailand may suffer greatly as a result of its decision to follow the Malaysian rather than the Singaporean approach and take on Abbott.

¹ Figures taken from UNAIDS website - www.unaids.org

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NEW BOOK REVIEW

R&D and Licensing: Value Through Intellectual Assets

by Kieran A Comerford

Kieran Comerford is the founder and MD of the Comerford Technology Management Ltd, a Dublin based specialist technology licensing consultancy. Kieran is himself an experienced electrical engineer and he has written and lectured on Intellectual Property management widely. He is also member of the LES For those who can neither tempt Kieran from the comfort of Dublin or who cannot visit him, he has kindly distilled some of his wisdom on technology development. This book provided the ideal jumping off point for understanding the commercial and legal issues connected with research and development (R&D) arrangements with outside parties and starting a strategy of acquiring third party rights to build value.

We live today in a very dynamic development and licensing environment. Even the largest organisations are increasingly using external sources of technology and few can maintain all of their R&D in-house. Many now use a combination of in house R&D and external technology or research resources. Not only is there a cost saving against maintaining a R&D function but there may be specialist gaps that can be better filled by outside organisations.. For research departments of universities and other specialist research bodies, licensing their technology to another provides a significant route to the marketing and exploitation of their intellectual property.

This book looks at these issues in the context of the wider market and seeks to guide the reader through the relationship with an external development company (or from the other point of view, with a potential acquirer or licensor of technology). The book gives guidance on strategies for

identifying third party technology, acquiring the necessary rights and how to successfully integrate third party innovation and research into one's own development so that both parties gain value from the process. The book covers in detail legal issues such as intellectual property and a gives detailed on licensing and royalty negotiations as well as valuation. It also includes useful advice of the evaluation of competitors' Intellectual Property.

Despite the amount of information and knowledge the book packs in it remains an enjoyable and easy read. Sections are easily identified and the concepts are clearly explained. Plenty of practical and real-life examples show how businesses have successfully increased their value by acquiring intellectual property from others. The book also has a useful appendix of online resources. It is aimed at people involved with the strategic and commercial development of business and this is not a technical book aimed at lawyers. As such it should recommend itself to a wide readership in all sorts of businesses involved in technology including University researchers and those responsible for deriving value from Intellectual Property.

Conan Chitham

Brands and Rights Partner, Mishcon de Reya

R&D and Licensing: Building Value Through Intellectual Assets by Kieran A Comerford
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Technology Licensing / Business Development Consultant

World leading technology transfer company yet2.com, is seeking an experienced individual to join our European operation based in the UK. The individual will have an appreciation of the current technology transfer market from within a business environment and will have significant consulting and deal-making experience. The successful candidate will be required to find and develop new business, focusing then on managing and executing yet2.com consulting methodology for commercialization and acquisition of technology for those global clients.

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- Deal closure

Yet2.com is a global technology transfer marketplace and licensing consulting company who offer a number of services to help companies in all aspects of the technology transfer and deal making process.

If interested please send your CV to Emma.Hughes@yet2.com , 01923 285282.

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Confidentiality: it's all **OK!** now

HELLO!

OK!



Following the recent backdown on the EU Metric Directive, it is proper to note the large number of column inches devoted by the press to review of the OK! v. Hello! House of Lords decision (2nd May 2007). This exotic and entertaining dispute, all to do with the right to publish photographs taken at the wedding of Michael Douglas and Catherine Zeta-Jones at the Plaza Hotel in New York, has been running since the end of 2000, making it of longer duration than most celebrity marriages. OK! magazine had its claim to breach of confidence upheld but ended up paying considerable costs.

OK! bought exclusivity from the Douglasses but that was spoilt by rival Hello! magazine which published bootleg photographs taken covertly by a freelance photographer. The High Court found that Hello! had breached confidentiality because it was clear to all, including the freelance photographer, that the wedding celebrations were being held in confidence and any photographic images were of the nature of confidential information. OK! was awarded damages of £1m. There was also the question of invasion of the Douglasses' privacy and they were awarded £14,600 for that.

The Court of Appeal reversed this decision, so far as OK! was concerned, on the ground that the obligation of confidence attached only to the photographs which the Douglasses authorised OK! to publish, and not to any other photographs. The Douglasses' personal claim of invasion of privacy was upheld, although on the basis of confidentiality rather than any distinct law of privacy, and they were refused higher damages.

At the House of Lords, OK! continued its fight for damages, both on confidentiality and 'economic tort' grounds, the latter based on Hello!'s alleged unlawful interference with OK!'s business and conspiracy to injure OK! The House of Lords considered OK!'s claims simultaneously with similar economic tort claims in two other, unrelated cases, resulting in an extensively compendious judgement.

Their Lordships were divided 3:2 and in majority upheld OK!'s claim based on confidentiality but not on economic tort. Lord Hoffman observed wryly that: "Some may view with distaste a world in which information of a wedding... should be sold in the market in the same way as information about how to make a better mousetrap."

But he would say that, wouldn't he; and in the end he agreed with the original High Court decision of Lindsay J that there was an obligation of confidence in respect of any photographs of the wedding. The economic tort claim was rejected because, although damage had been intentionally caused, that was not a consequence of unlawful means.

Since OK! failed on a significant ground, namely the economic tort issue, they were left with a costs shortfall somewhat greater than the award of damages, but honour amongst competitors was vindicated and possibly the publicity justified the expenditure.

This is the end of the line for this particular dispute although doubtless there will be others in the world of celebrity commercialisation. The House of Lords judgement importantly clarifies, extends and reinforces the law of confidentiality. This has important general implications for licensing practitioners. It emphasises the need to exercise caution when entering into confidentiality agreements, or when agreeing to look at a disclosure or attend a meeting under stated or implied conditions of confidentiality or secrecy. On the other hand, the judgement confines within reasonable grounds intrusion of economic torts into intellectual property areas, and reasserts that, despite the Human Rights Act 1998, any privacy and personality protection in the UK currently derives from extension of traditional confidentiality law rather than being a distinct intellectual property right, and will continue as such, unless and until parliament sees fit to introduce legislation to change the position.

Barry Quest

Wilson Gunn

Members on the *Move*

Liz Ward, Chair of LES NE Region, has left Fox Hayes and is setting up a niche IP legal practice called Virtuoso Legal. Her new contact details are as follows:

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U.S. Courts Ease Standard For Invalidating

Several weeks ago, the United States Supreme Court, in a unanimous decision, broadened the circumstances under which a U.S. patent can be held invalid for obviousness (or lack of an inventive step) in *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350 (April 30, 2007). The Supreme Court rejected the United States Court of Appeals for the Federal Circuit's requirement, as stated in many of its decisions and as applied in the appeal of the *KSR* case, that a combination of prior art references could only be used to show that claimed subject matter would have been obvious if there were shown to be a teaching, motivation, or suggestion within the prior art itself to combine those references to achieve the claimed subject matter. The Supreme Court explicitly noted that its analysis rejecting this rule applied to both Patent Examiners and District Courts.

The Supreme Court took clear aim at combinations of old elements in analyzing the Federal Circuit's treatment of such combinations: "This is a principal reason for declining to allow patents for what is obvious. The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." The Court also increased the scope of analogous art that could be used to form such claim-defeating combinations, noting that prior art in one field of endeavor can be adapted for another field if "design incentives and other market forces" prompt such adaptation.

The teaching/motivation/suggestion test was not the only Federal Circuit per se rule that met with the Court's disapproval. The Federal Circuit has long said that a determination of invalidity for obviousness under Section 103 of the Patent Code could not be based upon a conclusion that the claimed subject matter or combination of references was "obvious to try." The Supreme Court, to the contrary, stated that the obviousness of trying a particular improvement to prior art references could indeed establish obviousness of the patent claims, at least when "there are a finite number of identified, predictable solutions" available to those of ordinary skill. Once again, the Court looked to "design need and market pressure" as establishing the circumstances when the Federal Circuit's previous bright-line rules would be inappropriate.

The Supreme Court finally described some of the Federal Circuit's most recent precedent on obviousness, including the cases of *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006), and *Alza Corp. v. Mylan Labs., Inc.*, 464 F.3d 1286, 1291 (Fed. Cir. 2006), as providing a "broader conception" of the teaching/motivation/suggestion requirement than the formulation applied by the Federal Circuit in the *KSR* appeal. The Supreme Court declined to consider, though, whether the Federal Circuit's more recent and seemingly broader teaching/motivation/suggestion approach might have passed muster. Looking only at the *KSR* case and the appellate court's strict requirement therein of an explicit suggestion within the prior art to combine references, the Supreme Court concluded that the Federal Circuit had erred and reversed, finding that the district court had correctly entered summary judgment of invalidity.

Just a few weeks after the *KSR* decision was handed down, the Federal Circuit issued its decision in *LeapFrog Enterprises Inc. v. Fisher-Price Inc.* (No. 06-1402, May 9, 2007), applying the

Supreme Court's recent holding in *KSR* to affirm a bench ruling of invalidity for obviousness (the parties stipulated to have the court issue a decision after a jury trial resulted in a deadlocked jury). The following themes drawn from the LeapFrog decision are of interest:

1. The "common sense" of those skilled in the art. Citing *KSR*, the court stated that "the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not."
2. Application of modern electronics to prior art mechanical devices. The court took aim at what can be characterized as the modernization of prior art: "Accommodating a prior art mechanical device that accomplishes that goal to modern electronics would have been reasonably obvious to one of ordinary skill in designing children's learning devices." The court added that "[a]pplying modern electronics to older mechanical devices has been commonplace in recent years," and held:

We agree with the district court that one of ordinary skill in the art of children's learning toys would have found it obvious to combine the [prior art] Bevan device with the SSR [device] to update it using modern electronic components in order to gain the commonly understood benefits of such adaptation, such as decreased size, increased reliability, simplified operation, and reduced cost. While the SSR only permits generation of a sound corresponding to the first letter of a word, it does so using electronic means. The combination is thus the adaptation of an old idea or invention (Bevan) using newer technology that is commonly available and understood in the art (the SSR) (emphasis supplied).

3. Evidence that combination was difficult. The court noted that the patentee had not presented "evidence that the inclusion of a reader in this type of device was uniquely challenging or difficult for one of ordinary skill in the art."
4. Secondary considerations. Even substantial evidence of secondary considerations may not save the day:

The district court explicitly stated in its opinion that [the patentee] had provided substantial evidence of commercial success, praise, and long-felt need, but that, given the strength of the prima facie obviousness showing, the evidence on secondary considerations was inadequate to overcome a final conclusion that claim 25 would have been obvious. We have no basis to disagree with the district court's conclusion.

5. Deference to district court. Obviousness is still a question of law, but the CAFC yielded to the district court's decision making.

To the extent that these recent holdings emboldens district courts and defendants to seriously consider summary disposition on grounds of obviousness - a result that in recent years had seemed daunting to achieve because of the fact-specific nature of the "motivation to combine" analysis - the Supreme Court's decision may significantly alter the balance of power between patent owners and accused infringers. Accused infringers will doubtless press obviousness challenges earlier and more hopefully.

Jeffrey D. Sullivan

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News from the Regions

LES Irish Section

LES B&I Annual Conference

13-14 September 2007
Trinity College, Dublin

Whilst we are sure that you are now convinced of the necessity of attending the conference from a business perspective – after all who could fail to be inspired by the, “Irish Economic Miracle” and we will all gain from an insight into the Irish approach - have you considered the additional cultural attractions?

Dublin or Baile Átha Cliath is over 100 years old and originates from a Viking settlement Dyflin (from the Irish Duib Linn or “Black pool”) and a Gaelic settlement, Átha Cliath (“ford of hurdles”). Many of Dublin’s main cultural and historical attractions are within easy walking distance of each other and the city centre. We thought it would be useful to mention a few key sights to whet your appetites for your visit to our city.

Top ten things to do and see in Dublin (in no particular order)

The Guinness Storehouse

The home of “the black stuff”. Located in St. James Gate, no trip to Dublin would be complete without a visit to this world famous brewery. After enjoying a tour and learning the processes, ingredients and techniques involved in the brewing process, you’ll be treated to a complimentary pint in the 360° Gravity Bar with its panoramic views of Dublin.

www.guinness-storehouse.com



Trinity College

Located in the heart of Dublin’s City centre, this world famous university is home to the 9th century Book of Kells as well as a number of priceless Irish manuscripts. Founded under Royal Charter 1 in 1592, the grounds cover over 40 acres. Noted alumni include Oscar Wilde, Samuel Beckett, Jonathan Swift and Douglas Hyde, the first President of Ireland.



Old Library and Book of Kells

Opening hours:

Monday - Saturday 09.30 - 17.00

Sunday (May - Sept.) 09.30 - 16.30

Sunday (Oct. - April) 12.00 - 16.30

www.tcd.ie

Viking Slash Tour of Dublin

A great way to see the main attractions Dublin has to offer is to take a tour on one of these amphibious tour buses. They will take you on a tour through the streets of Dublin visiting sites including Trinity College, Christchurch Cathedral and Viking Dublin then up the River Liffey past U2’s recording studios.

**Departure Points: Bull Alley (beside St. Patricks Cathedral Park)
St. Stephen’s Green North (opposite the top of Dawson Street)**

Dublinia

This is one of Dublin’s most popular visitor attractions. The exhibition shows life in Dublin from the arrival of the Anglo-Normans in 1170 to the closure of the monasteries in the 1540s. It is located at the famous Christchurch Cathedral.

Opening Hours: April-September 10am-5pm daily

Christchurch Cathedral

This Cathedral dates back to 1038, however the present structure dates from 1871 to 1878. It is located in the oldest part of the city and is within easy walking distance of Trinity College.

09.45 – 17.00 Winter (September-May)

Dublin Literary Pub Crawl

This involves a journey to some of Dublin’s most famous literary pubs while being entertained by professional actors, who perform various works of Dublin’s great writers – James Joyce, Samuel Beckett, Oscar Wilde, Brendan Behan and many more.

Meeting Point – The Duke Pub, Duke Street (off Grafton Street) at 7.30pm. Summer: April – November nightly

Johnnie Fox’s

High up in the Dublin mountains this famous pub is regarded as “the Highest Pub in Ireland”. It stages live traditional Irish Music 7 nights a week and on Saturday and Sunday afternoons from 3.30pm-5.30pm. There is a par 3 golf course opposite the pub for those who want to spend an afternoon in the Dublin Mountains.

30 – 40 minute drive from Dublin city centre

Dublin Castle

Built in the 13th Century on the orders of King John, this complex was the centre of English power in Ireland until 1922. It contains some of the oldest Architecture in the city and now plays host to many government ceremonial functions. It is one of the most popular tourist attractions in the city given its huge historical significance and variety of architecture from the Vikings to the contemporary. It is within easy walking distance of Trinity College and Christchurch.



James Joyce Museum

This Martello Tower, which was originally built to withstand an invasion by Napoleon, now houses a museum dedicated to James Joyce. The tower provided the setting for the first chapter of Ulysses. It is located in the village of Sandycove about 8 miles south of Dublin city centre and is easily accessible on the Dart line.

Temple Bar

This cobble-stoned area in the city centre is home to numerous contemporary arts and cultural centres and is one of the main centres of night life in Dublin. There are year round live outdoor performances and an outdoor market every Saturday. It is within easy walking distance of Trinity College.

Karol Fox, Mason Hayes+Curran

LES Scotland Region



LES (Scottish Branch) joint event with the Scottish Stem Cell Network has had to be postponed until after the summer holidays. The calendar for the “stem cell audiences” was very crowded up to end June and we wanted to make sure that we got the best speakers, venue and attendance, so our apologies for the delay but “normal service” will resume in the autumn.

We have had a number of suggestions as to topics for the new year but please don’t hesitate to let us know if there’s a particular burning issue you would like to see us address.

We have had a number of changes to the LES (Scottish Branch) committee. It is with much regret that Cathy Rooney, our long serving Secretary, has had to step down but we are eternally grateful for her support in the past. However I am delighted to welcome Chris Bartlett to the throng and will make a more “formal” introduction at our next meeting.

Caroline Sincok



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Italy: Official Fees Published for Patents, Models and Designs

The long-awaited decree establishing the new government fees for patents, utility models and designs was published on 6 April 2007.

FILING FEES

From 21 April all national applications for patents, utility models and designs will be subject either to a modest fee for online filing, or to a much higher fee for traditional paper filing.

PATENT MAINTENANCE FEES

Since official fees were cancelled last year, no annuities were due for 2006.

Pursuant to the above decree, annuities for Italian patents and European patents validated in Italy are again payable, but only as from the 5th year running from the application date. Therefore annuities must be paid for all cases in which

- the anniversary of the filing date falls on or after 1 January 2007, and
- at least four years have elapsed since filing (annuities are payable only from the 5th year).

Under transitory provisions

2007 annuities due from 1 January to 30 April 2007 are payable within the end of June 2007. Late payment with a fine is possible during the following six months and therefore until 31 December 2007.

However, annuities due in May 2007 are payable within 31 May 2007. Late payment with a fine is possible up to 30 November 2007.

UTILITY MODEL AND DESIGN MAINTENANCE FEES

Quinquennial renewal fees for utility models and designs falling due on or after 1 January 2007 (5th, 10th, 15th and 20th year) are payable within the anniversary month of the filing date.

Under transitory provisions

renewals due from 1 January to 30 April 2007 are payable within the end of June 2007. Late payment with a fine is possible up to 31 December 2007.

However, renewals due in May 2007 are payable within 31 May 2007. Late payment with a fine is possible up to 30 November 2007.

QUINQUENNIAL RENEWALS DUE IN 2006

For those utility models and designs for which a quinquennial renewal was due in 2006, but was not paid since official fees were cancelled for that year, the ministerial decree requires that a special reduced fee be paid for further maintenance up to the end of the 5-year period.

These special fees are payable within 30 June 2007. Late payment with a fine is possible up to 31 December 2007.

Laura Ercoli
Società Italiana Brevetti

European Patent Office Celebrations



I attended the European Patent Forum and European Inventor of the Year events in Munich in April, which on this occasion celebrated thirty years of successful growth of the EPO. From 10,000 applications in 1977, the Office handled 200,000 applications in 2006.

The Patent Forum focussed on four possible scenarios - how would patents be affected by the globalisation of business, by cultural and ethical developments, by geopolitical power changes, or by advances in technology. A wide range of experts, many from outside the usual ip organisations, had been involved in a three-year study and produced detailed reports which were debated over two days in both plenary sessions, chaired by Tim Sebastian, and respective breakout sessions. A highlight of the first day was an address by German Chancellor Angela Merkel, who emphasised the influence of patent protection on the willingness of businesses to invest in R & D.

Although Alain Pompidou still had a few months before handing over the EPO presidency to Alison Brimelow, it was clear from his several contributions that he was (quite justifiably) proud of instigating the Forum and regarded it as a culmination of his role. His successor was present throughout the proceedings and made it clear that she had her own firm views on the need for changes.

The Licensing Executives Society was well represented

at the event with at least two national presidents also attending, Mr Kwan Ho Shinn of LES Korea, and Alan Baum, currently president of LES USA and Canada.

On the middle evening, 600 guests attended the European Inventor of the Year at the impressive International Congress Centre on the site of the old Munich airport (think Oscars for inventors). There were four categories: Industry, SMEs/Research, Non-European and Lifetime Achievement. One of the nominees in the last-mentioned category was an old friend of mine, Alec Jeffreys inventor of DNA Fingerprinting. I was delighted to meet him and his wife Sue again after a gap of twenty years or so. In fact we managed to have a Merton College mini-reunion along with Chris Mercer who was also attending as president of epi, the Institute of Professional Representatives before the EPO. On a personal note, it struck me as bizarre to have a competition for a Lifetime Achievement award (sorry, having reconsidered it, we think you wasted your life). As a "failed" nominee Alec is, I have to say, his own worst enemy (and a patent attorney's nightmare). In his usual self-deprecating manner (he has not changed over forty years) he tells everyone that the invention was staring him in the face and that anyone would have seen it. He was genuinely pleased that the award went to Marc Feldman for his work on the treatment of autoimmune diseases.

Stephen Powell



Events Diary 2007

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17 – 20 June 2007

LES! CONFERENCE

Zurich, Switzerland
 For further information see:
www.lesi2007.org

13-14 September 2007

LES B&I Annual Conference

Trinity College Dublin
 Email: les@glasconf.demon.co.uk

4 July 2007

LES B&I AGM & SUMMER SOCIAL

The Institute of Directors
 116 Pall Mall
 London SW1Y 5ED
 Email: les@glasconf.demon.co.uk

25 Sept 2007

LES NORTH EAST BRANCH

Talk by the Federation against Software Theft (FACT)
 In Leeds
 Details tba

For further information email:
liz@virtuosolegal.com

2-4 September 2007

LES Scandinavia Annual Conference

“Surviving Locally in the Global IPR Perspective”
 Ålesund, Norway
www.les-scandinavia.org

LES B&I Conference

13-14 September 2007
Trinity College, Dublin

**The Irish Economic Miracle:
 Lessons for the
 Licensing Community**

For further information,
 Email: cara@glasconf.demon.co.uk



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Please remember to tell our administrator, **Cara McIlwraith**, if you change your office address so that we can continue to send you LES information and **newsxchange™**. Her address is:

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Membership

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A membership application form may also be found on the LES B&I website: www.les-bi.org



Welcome!

Council has been pleased to welcome the following new members to the Society:

Ms Alison Bryce, Maclay, Murray & Spens; **Mrs Manyi Christofoli**, Innovation & Enterprise, Queen Mary University of London; **Dr Helen Floyd**, Smith & Nephew; **Ms Mary Gillick**, Technology Transfer Strengthening Programme; **Mr James Love**, James Love Associates; **Mr Wayne Murrell**, Russell Jones & Walker; **Miss Fiona O'Neill**, BCM Hanby Wallace; **Ms Sangeeta Puran**, Mayer, Brown, Rowe & Maw; **Mr Bart van de Stockt**, Flooring Industries Ltd.; **Dr Miriam Walsh**, Teagasc; **Dr Sarah Weir**, Cancer Research Technology Ltd; **Dr Richard Willoughby**, Howrey.

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