



ANNUAL REPORT
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Intellectual Property Institute

Insight, understanding and progress through research

Our Mission

Our mission is to promote awareness and understanding of intellectual property law, and its contribution to economic and social welfare, through high quality, independent research. We aim to provide knowledge and expertise for industry, policy makers, professionals and the general public, in order to foster a legal, social and regulatory climate that supports an innovation-based economy.

A Brief History of the Intellectual Property Institute

The idea of establishing a research body concerned with intellectual property law started to take shape in the late '70s. It was around this time that Hugh Brett, a practising solicitor, who had failed to persuade his previous employers that copyright, patents and trade marks were important business legal rights, decided to establish a journal dedicated to intellectual property law. It was to be called the European Intellectual Property Review (EIPR).

Major publishers were unwilling to accept that intellectual property was an important and growing legal subject, so the journal was first published from Hugh's bedroom. However, the number of lawyers who subscribed to the EIPR soon proved the sceptics wrong. There had now become recognition among practising lawyers that IP rights were not the sole preserve of patent attorneys, trademark agents and a few specialised lawyers. One copyright textbook had, for example, stated that specialised IP lawyers could be counted "on the fingers of one hand".

Interest in the subject was growing, fuelled by the UK's entry into the Common Market. Many early cases in the ECJ were IP cases. The European Commission identified early that if there were to be a true Common Market then harmonised IP laws throughout the Market would be necessary. Attention was starting to focus particularly on the common law aspects of IP harmonisation, since it was perceived that the development of an IP regime across Europe was being dominated by civil law thinking emanating from the Max Planck Institute in Munich (under the energetic direction of Prof. Frederick Beier and Prof. Eugen Ulmer).

Ironically, it was at the Max Planck Institute in Munich, in 1980, during a conference of the British/German Jurists Association (organised by Jack Black and Prof. Ulmer) at the Max Planck Institute, that the idea to form a UK institute finally materialised. Michael Flint, a senior partner at Denton Hall, Hugh Laddie and Robin Jacob (leading barristers at the time) Professor Bill Cornish, Professor Gerald Dworkin, Bryan Harris and Hugh Brett were among those who had gathered to discuss comparative copyright / authors' rights. During the conference, a group from the UK delegation chatted in the gardens nearby. They were appalled that there was no institute to compare with Max Planck in the common law countries, and concerned at the lack of a common law voice in the corridors of Brussels. They resolved to take action to establish what would be called the Common Law Institute of Intellectual Property (CLIP).

As the following anecdote suggests, perhaps there were already signs that Europe was taking notice of common law traditions. Robin Jacob was due to speak towards the end of the conference, on the Sunday morning. There was a bit of a panic because nobody had seen him on the Saturday, the first day of the conference. Unknown to all, he had gone off to the lakes and mountains, which had seemed to him the more favourable choice. However, he turned up bright and breezy on the Sunday morning. He began his talk by placing a large black pilot case on the table, from which he withdrew a plastic shopping bag emblazoned with the Union Jack. Few (including Sir Robin) can remember what he talked about, but everyone remembers the Union Jack bag, and that he had recently been in Luxembourg, where he was appearing for the UK government in the famous Coditel and Maize Seed cases. He had been surprised (and pleased) to observe that the Court had begun to talk and ask penetrating questions; a practice which followed the joining of the UK to the EEC as the common law judges and advocates general settled into the job.

The first CLIP offices were in Hugh Brett's offices at 25 Beaumont Street, Oxford. Shortly thereafter, it was decided that CLIP would be better placed if moved to London, and Michael

Flint hosted meetings at Denton Hall's offices in Grays Inn. Through Michael's enthusiasm and contacts, CLIP began to secure funding from industry and the legal profession. The first meeting, when the idea of creating the Institute was exposed to a larger audience, was also held in Denton Hall's offices in Gray's Inn. Intellectual property specialists from the bench, notably Mr. Justice Whitford, barristers and solicitors attended.

On 15th March 1982 in the Rotunda Room of the UK Patent Office the first meeting of the Foundation Committee of CLIP was held. The Chairman for the meeting was Lord Scarman, the Institute's first President. CLIP's Council included: Edward Armitage, Jack Black, Hugh Brett, Bill Cornish, Gerald Dworkin, Michael Flint, Geoffrey Hobbs, James Lahore, Brian Norris and Stephen Stewart QC. These were the prime founders of the Institute. Michael Flint was initially the Chairman of the Foundation Committee but as he had to spend much of 1982 in Los Angeles, the chair was passed to Stephen Stewart who had recently retired from being the Director of the IFPI.

Thanks to financial support from the American film industry, the Institute enjoyed premises at the Institute of Advanced Legal Studies, at Russell Square. Indeed, the establishment of CLIP owed much to Michael Flint's enthusiasm and his determination to secure funding from industry and the legal profession.

The Institute's first Director was Ivor Davies, formerly the Comptroller of Patents at the UK Patent Office. The first public event organised by the Institute was a conference at the Waldorf Hotel, London, on the subject of piracy. Thanks to Brian Norris, the conference was sponsored by the Motion Picture Association of America. Lord Scarman chaired it and gave the keynote speech. The national newspapers, as well as legal journals, covered the event. It was at this conference that the Institute could be said to have been launched. Prof. Beier, then Director of the Max Planck came and welcomed the arrival of their "Little Sister".

In April 1991 John Adams, then Professor of Commercial Law at the University of Kent, but latterly Professor of Intellectual Property Law at Sheffield University, took over as Director of the Institute. In 1994 the Institute changed its name to the Intellectual Property Institute, under the chairmanship of Sir Geoffrey Pattie, formerly a minister at the DTI. During this time, Ron Coleman, formerly Chief Engineer and Scientist at the DTI, helped to manage the Institute, remaining in post until John Reid, previously head of Patents at Unilever, became General Secretary in early 1997. The Institute had by this time moved to Southampton Buildings and the two Johns managed the Institute jointly until 2000 (having moved again to Outer Temple, Strand in 1999). Sir Robin Jacob had become a High Court Judge and the Institute's President, succeeding Lord Scarman.

In 1999, Ian Harvey, the Chief Executive of BTG plc, took over as Chairman of the Board. In May 2000, Paul Leonard was appointed as the Institute's first full time Director, combining roles of Director and Secretary General previously held by John Adams and John Reid. Since March 2001, the Institute has been located at 36 Great Russell Street, not far from its first premises, in Russell Square.

In 1982 Hugh Brett wrote, in an article in EIPR [1982, 5, p.129], that the "primary objective of the Institute will be to provide the facilities for research into the relevance and reform of intellectual property law. It is not possible to meet the needs of industry and the demands of innovation without a proper research centre. West Germany, for example, has the famous Max Planck Institute in Munich, with some 50,000 books, and a budget of over one million pounds per year, largely provided by government. A beginning has to be made....."

The objectives of the Institute have not changed since Hugh Brett articulated them twenty-two years ago. Over the years, the Institute can be justifiably proud of its achievements, made on a budget that has, sadly, never approached that afforded to the Max Planck Institute or, indeed, numerous other equivalent bodies around the world. In recent years, the Institute has owed much to the generosity of the pharmaceutical industry as well as numerous law firms, and it has recently enjoyed increasing support from the UK Patent Office, including the provision of a new Associate Director for the Institute, Richard Howe. The Institute is taking active steps to widen its support base from the private sector and government. The little sister wishes to grow up!

Director's Report for the Year 2003-04

I am very pleased to report on another successful year for the Institute during 2003-04. This year we made the significant decision to reduce the membership fees for our major corporate subscribers (starting in 2005-06), in an effort to widen our membership base. We have managed to attract a number of new members in this way, and we will continue this drive to increase our financial and human resources.

SOME GENERAL DEVELOPMENTS

Below is a brief summary of some of the notable developments that have happened over the year.

This year saw the appointment of **Sir Robin Jacob**, our President, to the Court of Appeal. All at the Institute offer our warm congratulations.

Richard Howe, a senior examiner at the Patent Office, joined the Institute on 1st November as Assistant Director. The Institute is very grateful to the Patent Office for the provision of this significant resource. Richard has made a tremendous contribution to the work of the Institute since his appointment, particularly in the development of our events programme.

Dr John Reid OBE, former Director of the Institute, stepped down as Chairman of the IP Awareness Group after chairing it for ten years. Paul Leonard has assumed the Chairmanship, and the group has been re-named the IP Awareness Network. John's tireless work on behalf of the group established a network of over 40 member organisations.

The Institute started the year with input to the DTI's Innovation Review on 28th March 2003. We have worked with the DTI and Patent Office to address the resulting recommendations.

A new IPI brochure, setting out the Institute's purpose, aims and ethos was drafted. We have used this to good effect in securing new membership and improving our dialogue with stakeholders.

The Institute organised a short course on IP as part of Imperial College Management School's business programme. The course was aimed at senior managers and covered a wide range of IP topics. A number of Institute Board and Council members were involved in delivering the lectures.

RESEARCH

Copyright

The Institute commissioned a study “The Scope of Copyright”, which examined current copyright provisions across a number of major jurisdictions, identifying particular problems / issues arising as a result of new digital technology. The report was drafted by the Edinburgh SCRIPT centre under the guidance of Prof. Hector MacQueen. We are now working with Hector and his team to try and secure funding for the follow-up work proposed in the report.

Business Method Patents

Bob Hart and Robert Pitkethly (St Peter’s College, Oxford and the Said Business School) worked with the Institute to prepare an excellent report on “Business Implications of Business Method Patents”. The report has been circulated to a key group of UK, US and EU policy-makers. The UK and European Patent Offices welcomed the report as a significant contribution to policy development in this important area.

The Patent Research Exemption

Trevor Cook of Bird & Bird agreed to instigate new research into the current provisions of the patent research exemption, and their current interpretation following some landmark cases in the US. We will look forward to reviewing and publishing Trevor’s report next year.

Gene Patents

The Institute completed a major project with the DTI on the current law and practice regarding patents for gene sequences. This was taken on under an obligation set out in the EU Directive for the Legal Protection of Biotechnological Inventions, which required member states to review how the Directive was working. The Institute was pleased to complete the analysis on time and to budget, and we look forward to working with government to follow up the report’s various recommendations.

Management of IPR in Shared Digital Environments

The Institute has been represented on the Steering Group of a project, undertaken by the Science Policy Research Unit at the University of Sussex, in association with the Ministry of Defence. The work seeks to identify the many potential pitfalls that may adversely affect partners in collaborative projects where shared digital environments are necessary. We look forward to working with our colleagues at SPRU as the project develops.

Policy-Related Research

We continue to pursue a programme of research in partnership with the Patent Office, addressing, for example, the outcomes of the Innovation and the Lambert Reviews.

SEMINARS & EVENTS

The following is a summary of events throughout the year.

- A conference on freedom of speech held in association with Queen Mary, London (March 2003)
- The first international IP mooted competition held by the Oxford IP Research Centre in association with the Institute (March 2003). This is worthy of particular note. It was very successful by all the accounts of those attending. Prizes were awarded to Kings College

London (best overall team, with the University of Westminster runners-up), Brunel University (best mooter) and University College Dublin (best written argument). The event will, we hope, be held on an annual basis and I am sure that support for it will now be greatly intensified given the outcome this year. Our congratulations go to Professor David Vaver and his team at the Oxford IP Research Centre for their outstanding work in organising the event.

- Launch of the book “Exploiting Patent Rights and a New Climate for Innovation in Japan (28th March 2003 at Harmsworth House).
- Tokyo launch for above (17th April)

Other notable events included:

The Community Patent

On 19th September Paul Leonard chaired an event held by the Management Forum in London on the Community Patent. Alison Brimelow (CEO of the UK Patent Office) and David Rosenberg (GlaxoSmithKline and member of the IPI Council) made outstanding presentations and contributed to an extremely interesting and successful day. The seminar was effective in allowing industry experts to voice their reservations about the proposals for the Community Patent to policy-makers at the most influential level.

The Challenge of Valuing IP

On 25th September there was a follow-up to the launch of “Exploiting Patent Rights and a New Climate for Innovation in Japan” (published last year by the Institute). The event, entitled “The Challenge of Valuing IP – Experience from Japan and the UK”, was hosted by the Patent Office.

Stephen Stewart Memorial Lecture

The 2003 Stephen Stewart Memorial Lecture was held at Slaughter and May on 10th November. François Dessemontet (Lausanne) delivered the lecture, entitled “IP – The American Law Institute Guidelines for Jurisdiction and Choice of Law.” As usual, our hosts did a wonderful job of putting on the lecture and the dinner afterwards. François’ lecture sparked a very lively debate, under the control of the Hon. Mr Justice Laddie, our Chairman for the evening. Because of the draft nature of the guidelines, we have not been able to publish proceedings of the lecture in the usual way this year.

LOOKING AHEAD

The Institute continues to grow in stature. In particular, I am extremely pleased, and proud of the work we undertook for the DTI this year. We reacted swiftly to establish an effective and expert management team and, of course, a high quality research team gleaned from Oxford and Imperial College, London. The work proceeded to time and to budget and the quality of the final output was impressive. Our reputation was well served, in my view, and we will seek to build on this kind of success in the future.

We still need far greater financial resources, however. We are actively seeking to widen our membership base: this will continue to be an overriding priority for the coming year.

Once again, I am very grateful to the staff here at the Institute who work so hard on its behalf. My sincere thanks go to Anne Goldstein, Sue Hanstead and Richard Howe. I would also like to take this opportunity to thank the members of our Board and Council for their valuable advice, encouragement and expertise, on which we so heavily rely. In particular, I would like to thank our Chairman, Ian Harvey, our Chairman of Council, Henry Carr, our President, Sir Robin Jacob and our "Editor-in-Chief", Margaret Llewelyn, for their considerable work on the Institute's behalf over the year.

A handwritten signature in black ink, appearing to read "Paul Leonard", enclosed within a large, loopy circular flourish.

Dr Paul Leonard
Director

Statement of financial activities - for the year ended 31 March 2004

	2004 £	2003 £
Incoming resources		
Incoming resources	214,658	126,284
Resources expended		
Charitable expenditure	(212,960)	(163,923)
Management and administration	<u>(16,793)</u>	<u>(16,009)</u>
Net (resources expended) before taxation	(15,095)	(53,648)
Tax on (outgoing) resources	<u>-</u>	<u>-</u>
Net (deficit) for the year	<u>(15,095)</u>	<u>(53,648)</u>

Balance Sheet – 31 March 2004

	£	2004 £	£	2003 £
Fixed assets				
Tangible fixed assets		4,708		6,074
Current assets				
Debtors	13,583		8,712	
Cash at bank and in hand	<u>44,115</u>		<u>63,809</u>	
Total current assets		57,698		72,521
Creditors				
Amounts falling due within one year		<u>(5,299)</u>		<u>(6,393)</u>
Net current assets		<u>52,399</u>		<u>66,128</u>
Total assets less current liabilities		<u>57,107</u>		<u>72,202</u>
Capital and reserves				
Unrestricted funds		<u>57,107</u>		<u>72,202</u>
Total funds		<u>57,107</u>		<u>72,202</u>