

World class

The inductees into the IP Hall of Fame for 2007 have all helped to establish intellectual property as a cornerstone of the global economy. Over the following pages they look back on their achievements and explore what may happen next as the IP world develops

By **Joff Wild** and **Sara-Jayne Adams**

It is not easy to become an inductee into the IP Hall of Fame. First of all you have to be nominated for consideration by the IP Hall of Fame Academy (see box on page 36); then enough Academy members have to vote for you. It's a process that takes quite some time.

At the end of April 2007, *IAM* sent out a mass email to members of the global IP community. They were asked to submit the names of people whom they thought should be inducted into the Hall of Fame. The criterion was that the person concerned must have made an "outstanding contribution to the development of IP law and practice, so helping to establish IP as one of the key business assets of the 21st century". All nominations had to be supported by a detailed submission explaining why the nominee deserved recognition. During the nomination process, which lasted until the end of June, well over 300 submissions were received. These were collated and turned into a list that ran over some 30 pages (and 13,500 words) for the IP Academy to sift through.

By the beginning of September the Academy members had made their choices and nine individuals were selected for induction. They were:

- **Talal Abu-Ghazaleh:** A major IP figure in the Arab world and beyond.
- **Hisamitsu Arai:** Twice Commissioner of the Japanese Patent Office and a key figure in the development of Japan's groundbreaking IP Strategic Programme.
- **Jerome Gilson:** Author of *Gilson on Trademarks*. Participated in drafting the

US Trademark Law Revision Act of 1988.

- **Karl Jorda:** Professor of Intellectual Property Law as well as Director of the Germeshausen Center for the Law of Innovation and Entrepreneurship at Franklin Pierce Law Center.
- **Hugh Laddie:** Influential figure in the UK and Europe as a barrister, judge, solicitor/consultant, mediator and teacher.
- **Gerald Mossinghoff:** Former Commissioner of the USPTO. Advised President Reagan on the establishment of the Court of Appeals for the Federal Circuit.
- **Pauline Newman:** Judge of the United States Court of Appeals for the Federal Circuit.
- **Kevin Rivette:** Co-author of *Rembrandts in the Attic* and, until very recently, VP of IP Strategy at IBM.
- **Joseph Straus:** Director of the Max Planck Institute for Intellectual Property in Munich.

These nine individuals join the 23 people inducted in 2006, including US presidents Thomas Jefferson and James Madison, celebrated French author Victor Hugo and inventor Thomas Edison, as well as more current names such as Marshall Phelps of Microsoft, former US senator Birch Bayh and British judge Lord Justice Robin Jacob. Further details about all inductees from both 2006 and 2007 can be found on the IP Hall of Fame website.*

On 24th October, at a dinner hosted by Ocean Tomo LLC in Chicago, five of this year's inductees – Talal Abu-Ghazaleh, Jerome Gilson, Karl Jorda, Gerald Mossinghoff and Kevin Rivette – received

The IP Hall of Fame Academy

The IP Hall of Fame Academy comprises previous, living inductees into the IP Hall of Fame, the panellists from the 2006 IP Hall of Fame induction process and individuals who have been put forward for membership as a consequence of their acknowledged expertise in international intellectual property issues. Moving forward, people will qualify for Academy membership only if they are inducted into the IP Hall of Fame or if their names are submitted for consideration by an existing member.

The role of Academy members is to select IP Hall of Fame inductees from the nominations made by the global IP community.

Current members are:

Heinz Bardehle – Adviser to the German government on IP, now with Bardehle Pagenberg

Birch Bayh – Former US Senator, co-sponsor of the pivotal Bayh-Dole Act 1980

Allen Baum – Past President of LES USA and Canada

Bruce Berman – Author and IP consultant based in New York

Joe Beyers – Head of IP at Hewlett Packard

Robert Blackburn – Former Chief Patent Counsel at Chiron Corp

Dennis Crouch – Owner and host of PatentlyO blog

Jerome Chauvin – Director of the Legal Affairs Department at Business Europe

Peter Chrocziel – Past President of LES International and a partner with Freshfields in Germany

Todd Dickinson – Former Commissioner of the USPTO

Tim Frain – Director of IP and Regulatory Affairs, Nokia

Melvin Garner – Past President of the AIPLA and a partner of Darby & Darby in New York

Anne Gundelfinger – Former President of the INTA and Vice President & Associate General Counsel, Intel Corporation

Ian Harvey – Chairman, Intellectual Property Institute, London

Bo Heiden – Deputy Director, Center for Intellectual Property Studies (CIP), Chalmers University of Technology, Gothenburg

Karen Hersey – Former President of the Association of University Technology Managers (AUTM)

Robin Jacob – The senior patent judge in the UK

Steven James – President of the Institute of Trade Mark Attorneys

Malte Koellner – Adviser on IP to the European Venture Capital Association

Klaus-Dieter Langfingler – Head of Patents, Trademarks and Licences at BASF

Bruce Lehman – Former Commissioner of the USPTO

James Malackowski – President and CEO, Ocean Tomo IP merchant banc

Damon Matteo – Vice President, Palo Alto Research Centre (PARC)

Dan McCurdy – President and CEO of Thinkfire, former head of IP at Lucent

Ciaran McGinley – Head of the President's Office, European Patent Office

Chris Mercer – President of the European Patent Institute

Gerald Mossinghoff – Former USPTO Commissioner, now with Oblon Spivak

Alexander von Mühlendahl – Former Vice President of the Community Trademark Office, now with Bardehle Pagenberg

Ron Myrick – Partner with Finnegan Henderson, Vice President of the AIPPI and a former President of the AIPLA

Shinjiro Ono – Former deputy Commissioner of the Japanese Patent Office

Ruud Peters – Head of IP at Phillips

Marshall Phelps – Vice President of IP at Microsoft

Jeremy Phillips – Professor of IP at London University, co-host of IP Kat blog

Peter Siemsen – Vice Chairman of ICC Commission on IP (Brazil)

Jeff Skinner – President, European Technology Transfer Association (ASTP)

James Sobieraj – Past President of LES USA and Canada and a partner with Brinks Hofer in Chicago

David Tatham – Former Head of Trademarks for ICI

their certificates of induction from *IAM's* editor Joff Wild. The five, and the rest of the group who could not be there, were warmly applauded by the 300 guests who had gathered to honour them.

Making IP more accessible

The IP Hall of Fame was designed as a not-for-profit exercise that focuses on individuals from business, politics, finance, the law, academia and elsewhere who have played a major role in the creation of today's IP system.

By focusing on individuals in this way, the aim is to make IP more accessible to a

wider public. Too often at the moment, IP is seen as something that is of benefit only to large, faceless multinational business organisations. This makes IP very easy to attack and very easy to misrepresent – something that is happening more frequently every year. By injecting a human element into IP, the idea is also to show that far from being of benefit to a privileged few, the development of today's IP system has had a profound and overwhelmingly positive impact on billions of lives across the world.

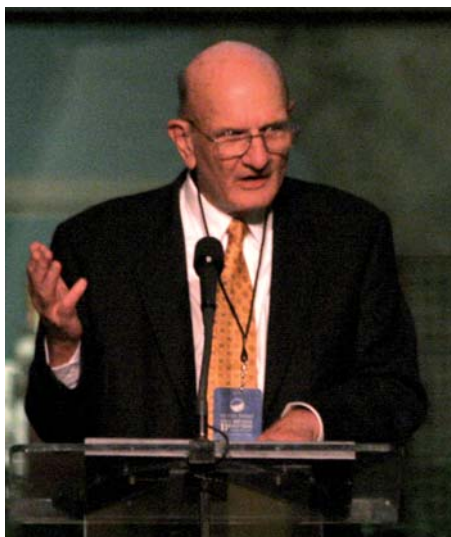
In 2006, we asked a panel of experts to sift through nominations in order to decide

IP Hall of Fame induction dinner, Chicago

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Talal Abu-Ghazaleh



Jerome Gilson



Karl Jorda



Kevin Rivette



Gerald Mossinghoff



who should be the first inductees to the Hall of Fame. The results were announced to the media through press releases and at a specially arranged event, which took place in February 2006 in London.

On the following pages we feature interviews with eight of the nine inductees of 2007. Sir Hugh Laddie was not able to speak with us, so we have put together brief profile instead.

The nomination process to find 2008's inductees is scheduled to begin in April 2008 and full details of how to make a nomination will be detailed in a future issue of *IAM*, as well as posted on the IP Hall of Fame website.*

*www.iphalloffame.com

Talal Abu-Ghazaleh

Interview by Sara-Jayne Adams

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

I am gratified that for the first time in the IP Hall of Fame the world outside the G-8 has been recognised by the IP community. I am humbled as a person, yet proud as an Arab and as a citizen of the non-G-8 world.

What made you decide to choose a career in intellectual property in the first place?

Upon my graduation in 1960 from the American University of Beirut, the words "intellectual" and "property" attracted my attention separately and together. As this was pre-internet, I looked to books to educate myself on the subject. As a needy student, I worked on translating books to fund my education and specifically chose those concerning IP. In those days IP texts published in Arabic had well-known writers attributed as translators for credibility. Thus I came to know about work for hire in copyright.

You have been widely credited for playing a major role in promoting the significance of intellectual property in the Arab world. Why do you think that awareness of IP issues has traditionally been so low in the region?

You need to remember that the entire Arab world is young. We came out of occupation only a few decades ago. The strides made since then are remarkable. The Arab world has embraced IP protection because it has its roots in Arab culture. My job in advising and assisting governments in the promulgation and development of IP laws was not only easy, but welcomed by the political decision makers. Similarly welcome were our efforts to develop programmes for IP training and qualification. I am amazed at the high level of awareness and enthusiasm for IP in the region, which is subsequently leading to increasingly developed levels of protection.

Who would you consider to have been the most forward-thinking leader in the Arab world with regard to IP during your career to date?

In 1962, at the age of 24, I was summoned by the late Emir of Kuwait, His Highness Sheikh Jaber Ahmed Al Sabah. In my capacity as the agent for registration of the 7UP trademark I had sued His Highness in his capacity as the Director of Finance of the Kuwaiti patent office. The registrar of the office had refused the registration of 7UP as



a trademark on the basis that the words "seven" and "up" are generic. It was my lucky day. His Highness listened to my plea and was so generous with his time. We talked about IP and he demonstrated great perception. He accepted that we were only trying to protect that trademark in that shape, colour and design for that product, and not the word and the numeral. From then on I loved IP because it had exposed me to that great leader so early in my career.

How committed is the Arab world to the development of IP protection?

If there is one region in the world that is committed to the development of IP protection through legislation, enforcement and litigation, it is the Arab world. Ownership rights, including IP rights, are not solely seen as a matter of law enforcement, but more as morals and principles to be respected. In four decades, this region has moved as much as other countries have in centuries. Yet in the future, I expect to see further leaps in the quality of IP protection.

How important is WIPO's involvement in the Arab world's development of IP practices?

WIPO's role in this process should be applauded. Joining WIPO administered agreements and participating in their Arab Bureau regional programme has ensured the development and harmonisation of IP in the region. The Arab Society for Intellectual Property (ASIP), which I proudly founded and continue to chair, developed training and qualification programmes based on the study materials produced by WIPO. We also partnered with WIPO on harmonising IP legislation throughout the region.

The Arab region is entering into an economic and wealth boom unparalleled in world history. This part of the world will not only represent the greatest source of global capital, but will become a major international market. This region now has the resources and determination to match the levels in infrastructure and standards of living in the developed world. WIPO is well advised to make this region a priority; it is in the interest of the whole world.

On a personal level, what do you regard as your most important achievements during the time you have been involved in IP?

Abu-Ghazaleh Intellectual Property (AGIP) was established in 1972 and is now a



Hisamitsu Arai

Interview by Sara-Jayne Adams



leading global firm. It has 60 offices and 150 representative offices, serving some 50,000 clients all over the world. My colleagues in AGIP succeeded in a developing region due to a commitment to excellence. We created a state-of-the-art organisation and used cutting-edge technology, including ICT training. We are the evidence that the world recognises performance equitably and without discrimination. I accordingly owe our achievements to our valued clients who honoured us with their confidence.

How do you see IP law and practice developing in the Arab world over the next five to 10 years?

The intellectual property protection legislative frameworks in most of the Arab countries have undergone dramatic change and development. And that change is continuing. It has been characterised by a major trend towards codification of laws and an increasing substitution of official procedures. The driving force behind this development has been primarily external; hence a significant difference has arisen between the formal expression in the legislation and its practical application through enforcement efforts.

Considering the expected economic developments in the Arab region and the pressure applied by the international community, especially the United States, there is no doubt that the Arab states will need to re-examine and upgrade their IP laws in the next five to 10 years. The obligations to the international treaties, such as TRIPs, as well as the many bilateral agreements that Arab countries have agreed to recently, will have to be taken into account.

I would say that the internal regulations and judicial execution of IP protection will be the initial step to ensuring that IP rights are adequately protected in the region. I believe the Arab world will give more attention to the enforcement of IP rights due to the extraordinary investments that are currently occurring in the region.

Finally, I see the Arab world in 10 years developing its legislative environment to match the standards set in the developed world. More emphasis will be placed on enforcement and capacity-building for all. Our AGIP updated database of all IP court rulings in the region from inception, as well as AGIP's database of all registrations in the region, will provide useful tools for the enforcement of protection. ■

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

As a member of the Japanese intellectual property community, it is a great honour for me to be inducted into the IP Hall of Fame. This induction indicates that Japanese IP policy is highly appreciated by the international community.

You played a key role in the development of Japan's Strategic IP Programme. How did you get involved?

I was appointed the Commissioner of the Japan Patent Office in 1996 and since then I have been interested in IP issues and involved in IP policy making. I served as visiting professor of various universities and a member of the Policy Advisory Commission of WIPO, and founded the National Forum for IP Strategy which contributed to building a consensus around IP in Japan. I published books and took part in monthly IP meetings throughout Japan, and was then made the secretary general of the Prime Minister's Office, which is the engine of IP reform in Japan.

How important was it to have Prime Ministerial backing for the plan and how was this achieved?

It was vitally important to have the Prime Minister's backing in order to change the framework for the IP system drastically and fundamentally. In the past, IP was solely under the protection of patent, trademark and copyright law, which are handled by technical experts; but nowadays IP is important as a national asset. All over the government numerous agencies are now involved in promoting a comprehensive national IP strategy. It's no longer just the Patent Office that is directly involved, but agencies as diverse as trade, science and education, and the foreign ministry, too. It is necessary that all the agencies are involved and it is only the Prime Minister who can coordinate the inevitable conflict of cabinet ministers. This was achieved following a request from the business community and the support of politicians and the media.

What do you consider the most important achievements of the programme since it began?

There are three national powers in Japan: the legislative power, which has enacted the

IP Fundamental Law; the administrative power, which has established the IP Strategy Headquarters chaired by the Prime Minister and composed of all cabinet ministers and 10 prominent academic and business leaders; and finally the judicial power, which established the IP High Court.

All three of these powers have coordinated and worked together. This has been no simple feat and it shows how much importance the Japanese people are placing on IP in our society.

What are the major tasks that have still to be achieved?

Business activities are globalised and international cooperation in research and development is being promoted, so it is now necessary for us to have a global patent system and an anti-counterfeiting treaty.

You have suggested before that there is too great a division between academia and industry in Japan. How do you believe that this situation can be improved?

This situation has improved via two methods: a top-level dialogue has been established between leading universities and companies; and the National University Law was changed to encourage greater cooperation between academia and industry.

Many universities have now established their own IP headquarters and the business community has opened doors towards cooperation. It has been recognised as necessary since open innovation is becoming vitally important to the economy.

Japanese companies seem to be growing more willing to litigate IP disputes than they have been in the past – both in Japan and overseas. Why do you think this is?

The material society that was established with the industrial revolution in the 18th century has now been replaced by an intellectual society in which IP is an important business asset and a source of

international competitiveness. Therefore, it is natural for Japanese companies to litigate to protect their IP. Japanese companies are facing many more disputes from foreign companies as well.

One major goal of the Japanese authorities seems to be much closer cooperation between major patent offices. What are the priorities in this area and how close are they to being achieved?

I think there are three steps for collaboration: harmonisation of patent laws and practice; mutual utilisation of patent examinations; and mutual recognition of patents granted.

We have made great steps towards the harmonisation of laws and practice, especially now that the US is amending its laws to bring them closer in line with other countries. Laws and practice are nearly harmonised across developed countries, so it is now time for us to enter into the second stage of utilising patent examination as soon as possible.

How much further does Japan have to go before it truly becomes an IP economy and what needs to happen for that goal to be realised?

In the case of the Japan Patent Office, the quality of the patents granted and the examination speed must be assured. Unfortunately at the moment there is a big backlog of patents waiting to be examined. Our goal is to work through this and ensure that in future there is no delay in applications going straight to the examiners.

Secondly, in the IP High Court nearly all the judges are legal, but not technical, experts. More of these experts are needed in order for the court to work as effectively as possible. I also believe that Japanese IP laws need to be updated. The information technology and biotech industries require different protection from other areas of commerce and industry so we must ensure that we meet their needs.

Finally, an anti-counterfeiting treaty should be achieved soon and greater promotion of the benefits of providing assistance to developing countries is needed.

Where do you think Japan will be with regards to IP in, say, five to 10 years' time?

Japan will be a model of an IP nation in the world and will be a leader in developing an international IP framework. ■

Jerome Gilson

Interview by Joff Wild

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

I am honoured and humbled. Over the years I've received many awards, but this one is unsurpassed. To stand alongside (as it were) Edison, Madison and Jefferson is a rare distinction indeed. I only hope I have lived up to it.

Why did you decide on a career in trademark law?

It was something of an accident. In the 1960s trademark law was a tiny legal speciality, one that few lawyers knew of and fewer practised. One day I sent a *Time* magazine article about trademarks to a friend who was one of the few. We met for lunch, he explained the field to me and he ultimately invited me to join his (my present) firm. As an English major in college, I was astonished to learn there was a field that involved word meanings, brand names and litigation. It seemed too good to be true, but it wasn't.

What have been the most significant changes in trademark law and practice since you began your career?

There have been at least two major changes, both in scale and in scope. The field has grown astronomically. At the first annual meeting I attended of what is now the International Trademark Association (INTA) there were 150 lawyers. This year there were well over 8,000. Earlier the practice was very collegial. I got to know many colleagues and the network was conducive to early settlement of trademark disputes.

The field has also expanded globally. Many businesses today know no bounds and the internet has become a central factor in internationalisation. Cross-border trademark disputes were once rare; now they are routine. Fortunately, the overall trend internationally has been towards harmonisation of national trademark laws and the development of multinational trademark treaties.

How did you get involved in drafting the Trademark Law Revision Act? Has it achieved what it set out to do?

I was Reporter on the INTA Trademark Review Commission, a blue ribbon panel of leading trademark lawyers and academics. We studied the Lanham Act for two years in a top-to-bottom review and drafted proposed revisions and suggestions. I wrote the

Commission report to the INTA Board of Directors, which was approved unanimously and was the springboard for Congress enacting the TLRA in 1988.

The law has been enormously successful, particularly in its adoption of intent-to-use, a system that revolutionised US trademark law. Before the law was passed it was not possible to apply for federal trademark registration without actual use of the mark in commerce, a sometimes cumbersome procedure often involving token (read sham) use. Today businesses can apply based upon a *bona fide* intent to use the mark in the future. They can thus establish certain legal rights in a mark even before beginning the lengthy process of developing a new product, then manufacturing and marketing it to the public under the trademark.

If you had the opportunity, what aspects of US trademark law would you change?

I would deter the federal courts of appeals from independently creating their own principles of federal trademark law. National uniformity of trademark law is imperative. Only Congress has the power to amend the Lanham Act and it does so only after extensive study, and considering the views of the trademark bar and trademark owners. By contrast, a court sometimes changes the law in a contentious case, with only the positions of the litigants before it. This can lead to conflicts among the circuits, forum shopping, and unpredictability in advising clients and in the outcome of cases. One example is the doctrine of nominative fair use, created out of whole cloth not by Congress but by the Ninth Circuit Court of Appeals and followed there. The other circuits that have considered it have rejected it.

You have been heavily involved in trademarks internationally. What has this taught you?

I have learned that as trademark use becomes more and more global the complexity of trademark disputes increases exponentially. With some exceptions, the world still operates under a fundamental system of separate national trademark laws, with rights that must be established and enforced under the laws of each country that is affected. The more that countries strive to harmonise their laws with each other, or to participate in multinational treaties, the better off international trademark owners will be.



Karl Jorda

Interview by Joff Wild

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

This recognition feels like being on top of the world, on Cloud 9, especially since it came as a complete surprise out of the blue. It makes me deliriously happy and truly ecstatic; hence, I am eternally grateful to *IAM* magazine and the IP Hall of Fame Academy.

What made you decide upon a career in intellectual property – was it by accident or design?

My IP career started as an out-and-out accident. I applied for a position in the legal department of Miles Laboratories (now Bayer) in Elkhart, Indiana, after graduation from Notre Dame Law School in South Bend, Indiana, in 1957. Back then there were no electives, much less IP courses, in law school. As it so happened the Miles position got filled and I was told that they had an open position in the patent department, for which I would qualify in light of my chemical background. I probably asked, "what's a patent", never even having heard the word patent before. I was offered and accepted that position and have never regretted it.

How did you become Chief IP counsel at Ciba-Geigy?

I became Chief IP Counsel at Ciba-Geigy, because I was luckily at the right place at the right time. After a short stint at Miles, I moved to Ciba-Geigy's patent department in 1960. The head of the department was a Swiss chemist who went back to the Swiss parent company in 1963 and passed his position on to me, even though I had only about five years of experience at the time.

What did the role entail and how did it develop over the years in which you held the position?

My role as Ciba-Geigy's Chief IP Counsel entailed not only the obvious administrative and supervisory functions but also personally handling a sizeable patent docket of my own to gain first-hand knowledge of dealing with inventors and patent examiners, and the trademark practice of Ciba-Geigy. Furthermore, I participated significantly in all licensing activities of Ciba-Geigy. This taught me how to deal with and motivate people, and effectively grow and utilise a corporate patent portfolio.

What attributes should a top-class trademark lawyer possess?

When I interview applicants for trademark positions with my firm I typically inquire at length about reading habits, writing proficiency and language facility. I even ask whether the candidate does crossword puzzles. Of course, strong academics from a top law school are a given, but a college degree in English is a plus. As I see it, the successful practise of trademark law requires a good liberal arts education, exposure to good literature, top law school grades, strong written and verbal ability, a taste for litigation and, above all, a love of the language.

How did you get involved in producing *Gilson on Trademarks* (previously *Trademark Protection and Practice*) and what were you seeking to achieve when you began writing the first edition?

I had been practising trademark law for about nine years and had published several articles on the subject when Matthew Bender & Co (now part of LexisNexis) approached me (in 1972) and asked me to write a trademark law treatise. Their previous work was outdated and they had learned that

a competing publisher had engaged a law professor to write a trademark law treatise. I agreed and decided that I would rely heavily on my litigation and private practice background to set my treatise apart from that written by a law professor. I felt that the real world of trademark practice qualified me to achieve a practical, common-sense approach.

Is it easier or harder being a trademark owner now than it was, say, 10 or 20 years ago?

I would say a bit harder, because of the advent of the internet. Until the internet, infringers could not simply go online at little or no expense and concoct some horrid imitation. As time went by, many trademark owners encountered a tumultuous period of infringement and counterfeiting, as well as cybersquatting. Many infringers registered domain names containing registered trademarks and then offered to sell them to the true trademark owner at fancy prices. The practice was quickly stymied by Congress. However, there are still today many infringements and counterfeits on the internet that consume substantial trademark owner time and effort to monitor and, often, to combat. ■

Do you think it was harder or easier to be a chief IP counsel at a pharmaceutical company when you were doing it?

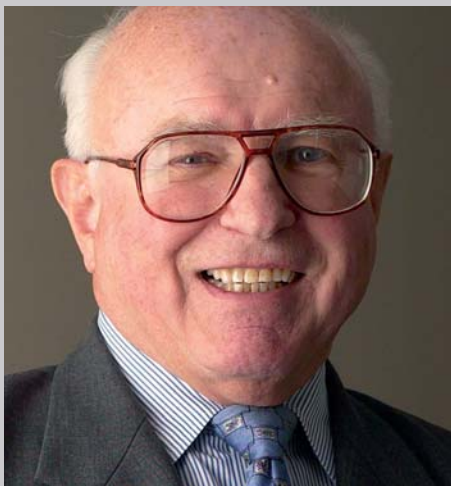
I'd have to admit that it was easier to be a chief IP counsel at a pharmaceutical company in my time, the good old days. Then it was much easier, quicker and cheaper to obtain patents, and patents were mutually respected by competitors. Hence, there was no cut-throat infringement litigation. Subject matter-wise, there was no biotech practice, with all its complications. Also, extensive licensing practice was still a thing of the future. The NIH (not invented here) factor and the policy to commercialise only home-grown innovation still prevailed. And top management was not yet wont to breathe down your neck constantly, but instead left you in peace to do your job of patent solicitation. Ah, those good old days!

After leaving the corporate world, you carved out another career in academia. Why did you make that choice?

My move into academia was, again, altogether accidental. In 1989, when I was turning 60 and had been with Ciba-Geigy for almost 30 years, I was considering such options as retiring or joining a law firm as of counsel or staying on. But one day I got a call out of the blue from Professor Homer Blair at Franklin Pierce Law Center (Pierce Law), who had also had a lengthy corporate career, informing me that he was retiring and his position was going to be available. My first impulse was that I would not qualify, never having been a professor, but I accepted the offer and became comfortable with this decision when I realised that my corporate career involved much teaching; ie, teaching staff, inventors, scientists, research management, patent examiners and so on. Also, after a lengthy professional career one can talk about it and students appreciate hearing about operational experience. In retrospect, I couldn't have made a better choice back in 1989. And the fact that I received a lifetime contract this year at age 78 confirms that.

How does working in academia compare to working in industry?

It is quite different in terms of flexibility, independence and structure. But it is an easy adjustment and it is the best of all worlds: you're retired, yet still meaningfully engaged. And teaching what you practised to mature graduate students is highly gratifying.



Hugh Laddie

Profile by Sara-Jayne Adams

During your career in intellectual property, how do you think that perceptions of the subject have changed?

They have changed radically. IP used to be in disrepute for being monopolistic and IP practice used to be a marginal back-room specialty. Now it is front and centre in corporations, and of considerable concern and interest to management, as intellectual property can amount to 80% of a corporation's assets.

What do you think are the biggest challenges facing IP owners at the current time and how would you like to see these met?

Among the biggest challenges facing IP owners are the difficulties and limitations arising from more stringent patentability requirements imposed by the patent offices and courts, and the escalating costs of obtaining and defending IP rights. Also, delays in needed patent reform legislation and international harmonisation are very detrimental. Something that may be helpful in solving some of these problems is instituting a utility model or petty patent system, in order to protect innovation that is now excluded from patent protection for not rising to the higher standards of non-obviousness.

When you look back over your career, what are your proudest achievements?

Among notable career achievements are the facts that I held a chief IP counsel position at a major corporation for 26 years, became the oldest active ACPC (Association of Corporate Patent Counsel) member in terms of tenure, received the Jefferson Medal of the NJIPLA (the US's highest honour in IP) and was appointed to an endowed professorial chair at Pierce Law as David Rines Professor of IP Law and Director of the Kenneth Germeshausen Center for the Law of Innovation and Entrepreneurship; and at age 78 received a lifetime employment contract at Pierce Law. ■

"Throughout every facet of his career – at the bar, on the bench, as an author, academic and in his consultancy – Sir Hugh has demonstrated a remarkable consistency in his blend of visionary scholarship. He has earned the respect and admiration of a generation of IP practitioners both in Europe and beyond." So says Nigel Swycher, a partner of London law firm Olswang and a former head of IP at Magic Circle firm Slaughter and May. The qualities he identified are what saw Sir Hugh Laddie inducted into the IP Hall of Fame in 2007.

Called to the bar in 1969, Hugh Laddie had what he once described as a "truly stupendous time" as one of the country's top IP barristers for the next 25 years. During this time Laddie also published the first of the three editions of *The Modern Law of Copyright & Design*. In this book Laddie and his co-authors directly challenged and criticised many widely held views on IP rights.

In April 1995, Sir Hugh was appointed a High Court judge. He joined the Chancery Division where he became well known for his contentious decisions. "Throughout his career at the bar, Hugh Laddie demonstrated three characteristics: independence; courage; and originality. This same combination is to be found in his judgments. That meant that they were often vulnerable to attack on appeal. But where his decisions were overturned, it does not follow that they were wrong – frequently they were ahead of their time," says Henry Carr, a QC who argued cases before Sir Hugh on a number of occasions.

A prime example of a controversial Laddie ruling being reversed came in the *Arsenal Football Club Plc v Reed* trademark case. Sir Hugh referred this to the European Court of Justice for clarification on several aspects of European law, but then refused to follow the recommendations of the court, claiming that it had made fresh findings of fact – something the ECJ has no power to do. Laddie's decision was later overturned by the Court of Appeal.

In *Eddie Irvine v Talksport*, Sir Hugh redefined English passing-off law. His finding in Irvine's favour reversed the previous trend to dismiss the plaintiff's claim in cases of false endorsement. This is just one example of why David Latham, partner at Lovells LLP, says that "as a barrister and judge Sir Hugh has left a significant mark on the development of IP law in England and Europe".

Ben Goodger, an executive of Rouse &

Gerald Mossinghoff

Interview by Sara-Jayne Adams

Co International (a firm for which Sir Hugh now acts as a consultant) and global head of its IP commercialisation group, is equally complimentary. "If you want an IP judgment that is freshly thought through and crisply expressed, you need look no further than any Laddie judgment," he says.

But it was not just candour and clarity that Sir Hugh brought to his court. He also understood that litigation in England was an expensive undertaking, once saying that it was for the "rich, mad or destitute". As a result, he said: "I was determined to cut costs to a point where I used to irritate people."

According to Sir Hugh, judges having to learn on the job is a primary cause of unnecessary expense. Often, they are forced to make decisions in areas in which they have no prior knowledge. Since quitting the bench in 2005, Sir Hugh has confessed that it would have been "better to use a roulette wheel" than to have him deciding on a tax or insolvency case.

When he did retire, Sir Hugh became the first high court judge in 35 years to do so voluntarily. Despite having very much enjoyed the first five years, he stated that he had felt increasingly isolated and restless. His announcement was not well received in

some quarters and it was reported that Sir Hugh's formal letter of resignation received no acknowledgement from the Lord Chancellor. Shunning the quiet life, Sir Hugh opted to return to practice and the "fun and mutual support of working in a team". Since joining Rouse Legal, the Rouse & Co law firm in the UK, he has played a significant role; not least in developing its IP arbitration and mediation operation, as well as supporting its patent practice and training programmes. Sir Hugh's position at Rouse Legal has also enabled him to make a return to teaching – something he claims leaves his "batteries recharged".

In fact, since retiring, it appears that Sir Hugh has never been so busy. In September 2006 he was appointed to the newly created position of Chair in Intellectual Property Law at University College London Faculty of Laws. In this role he has continued to make clear his strong opinions on the law and its role in IP. Sir Hugh is currently recovering from surgery, but his many friends and admirers around the world have no doubt that come the new year he will be busy once again doing what he does best: questioning conventional assumptions about IP law and practice, and challenging his colleagues and students to come up with the answers. ■

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised this way?

I am greatly honoured. *IAM* magazine is a very respected journal and to be inducted into the Hall of Fame is very significant for me.

What were the circumstances that led you to your appointment as the Commissioner of the USPTO back in 1981?

The USPTO was in a very bad condition at that point. The previous administration had not provided sufficient funds so Secretary of Commerce Malcolm Baldrige wanted someone who understood how the US government operated and could make some significant improvements to the USPTO during his term as Secretary of Commerce.

You advised President Reagan on the establishment of the Court of Appeals for the Federal Circuit. What were you hoping the Court would achieve and how successful do you think it has been?

Under President Reagan, Secretary Baldrige chaired the cabinet counsel on Commerce and Trade. Within that cabinet counsel, I was the chairman of the IP sub-committee and that was the role that I used to get overall government support for a lot of the things that we did during the first Reagan administration. One of those things was to recommend that the President and his cabinet support the creation of the Court of Appeals for the Federal Circuit. The goal was to eliminate what one senior executive in the industry called "geographic dependent decisions" – you would get different decisions if you were in California than if you were in Chicago or Louisiana, for example. So, the goal was to not have several different patent laws in the United States but for there to be one patent law which would be determined by a single court. I believe the Court of Appeals for the Federal Circuit has been very, very successful in achieving that goal.

Leaving the creation of the CAFC to one side, what do you consider to be your major achievement during your time at the USPTO?

The major achievement was to establish funding for the USPTO that would keep up with the workload. We agreed to increase the patent fees significantly, then we arranged for the USPTO to keep those fees rather



than their going to the US Treasury. The budget for the USPTO has increased from US\$79 million to US\$1.7 billion in just over 20 years. The second achievement was to introduce an automation programme. I was determined that we were not going to use paper files for the foreseeable future and we are now moving towards a paperless USPTO, which was my goal back in the first Reagan administration.

What do you make of the controversial claims and continuations rules that the USPTO has recently been enjoined from introducing? Are you worried that there seems to be such a split between the office and the US patent bar?

I think there is an unnecessary split between the USPTO and the patent bar which I would like to see healed or worked through. I personally don't think that the substance of what the office came up with in the end is all that problematic; I don't concern myself with whether they had the authority to do it or not. But I think that the actual plans for claim and continuation limitations in the end turned out to be a reasonable compromise.

The USPTO is often criticised for granting questionable patents. Do you think that this is a fair criticism?

No I don't. The patent office has its own laws that it must live with and implement. Those laws do not necessarily say that an invention has to be something that everybody agrees is a good idea. There are legal limitations that the office works under and there have always been very strange patents that people think are no good, but the office must live with these laws and they do not state that an invention has to be practical. There was a book written at the turn of the last century, around 1900, that listed several of the strange patents granted by the USPTO at that time. I think at any era you can find patents that people consider a crazy idea, but that is not the test. So I think the criticism is generally unfair.

How do you combine your current roles as a senior consultant at the law firm Oblon Spivak and a visiting professor of IP Law at George Washington University?

These roles are directly related. I teach multinational protection of intellectual property and intellectual property legislation. In my consulting with Oblon Spivak and some



of its clients I directly use what I have to learn in order to teach those two courses at the George Washington University Law School. So there is a direct connection between the two.

You have had a long career working in intellectual property. How have perceptions of it changed over that time?

I think there's a pendulum. I know that before the enactment of the patent laws in 1952 there was a definite hostility to patents from the US Supreme Court. That changed, and through Reagan's presidency we were able to achieve the so-called GATT-TRIPS, and establish a firm basis for international intellectual property. Now it seems that people are maybe trying to swing the pendulum the other way. I hope this doesn't happen, because I hope that intellectual property is recognised for what it is – namely a true driver of human development in all its forms. Whether it is literature, art, technology or science, all of it depends on intellectual property. It's at the cutting edge of our knowledge-based economy.

What do you imagine the IP landscape will look like in, say, five to 10 years' time?

I think there'll be a renewed appreciation of the direct importance of intellectual property and in part that is going to come from our Eastern neighbours. Korea is very interested in IP and a big user of it. China is becoming a very significant user of IP and in a very good way. I would say that the countries that recognise IP – including China, Korea, Taiwan – their leadership in the IP world will be recognised by countries that don't quite appreciate how important it is – and I would include in that list Brazil and India. I think we will see leadership in IP from the traditionally recognised Trilateral countries (EU, US and Japan), but its development will also be stimulated by Korea, Taiwan and China in the next 10 years. ■

Pauline Newman

Interview by Joff Wild

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

I am delighted – what an honour to join Thomas Jefferson and the other members of this Hall of Fame. Jefferson understood that it's the practical applications of science that contribute to human benefit; this is the philosophy of patent systems and the philosophy to which I have devoted my career.

Looking back on your career, what do you regard as your most significant achievements?

I suppose that whatever contributions I may have made flow from the formation of the Court of Appeals for the Federal Circuit, in which I had a small part, and then my own unexpected move to the bench of that court. Those events occurred at the threshold of spectacular advances in science and surely aided in their application to human benefit. Looking back, this new court was ideally positioned to support a new entrepreneurial spirit in the nation, to add legal vigour to a technology-based economy, to foster the public benefits that flow from the commercial development of new products and capabilities. Looking back, it is a great satisfaction to have been present at the threshold of this era.

How did your time in-house at FMC affect the way that you view the patent system?

My entire experience was in industry, and my view of the patent system started to develop even before I became in-house counsel at FMC. My first job was as a research chemist in industry; I was assigned a project in my field of polymer chemistry and I soon realised that the only source of useful practical information was in patents. I also came to understand that technologic progress is made in small increments and that a legal environment in which the innovator could not protect the small as well as the large advances often meant that the work was not done, and the potential public benefits of accumulated knowledge were less likely to be realised. I started to understand the effect of the legal environment on commercial enterprise and I became sensitive to the many and complex influences on industrial development.

Thereafter, in my 30 years as corporate counsel, I observed and participated in the daily reality of technology-based commerce, including incentive systems in commercial investment and technologic progress. These

activities surely affected my understanding of technology-based industry, of competitiveness, of the vast public and private interests served by commercial development of new technologies, and of the role of the patent system.

You have been a Federal Circuit judge since 1984. What do you believe have been the most important achievements of the court in that time?

In my view the most important achievement was the recovery of the patent-based incentive for technological advance, through the conversion of patents into a reliable support for commercial investment. The court reestablished objective standards of patentability and validity and infringement, and reinstated the patent law into the mainstream of property law and commercial law. These straightforward judicial acts turned out to have a powerful impact on entrepreneurial investment and industrial innovation. The technological leadership of the United States in several powerful new fields has been credited in part to the stable and predictable patent law that this court generated. This was an extraordinary test of the power of patent principles – a test whose mechanism has been copied in several nations.

We now take it all for granted – I fear that we are forgetting the lessons of history, for we seem determined to repeat our old mistakes.

Some people say that the CAFC is too pro-patentee. How do you respond to such criticisms?

Today I hear more complaints that the CAFC is too anti-patentee. Such criticisms are in all events superficial, for they are based on a count of wins and losses, with no analysis of the issues and facts of the cases won and lost. The patents that are litigated today are quite different from those of the early days of the Federal Circuit, when commentators would refer to the “new strength” of patents whenever the court upheld a patent.

In the early days of the Federal Circuit we often encountered cases where the litigation challenge was based less on weakness of the patent than on the traditional hostility of the courts. Today in litigation we see very close questions and more split decisions than in the past. The statisticians tell me that today the court rules against the patentee as often as not. I don't see a policy shift in these rulings; I do see that the



patents and issues in litigation have changed, shifting the statistics.

The Supreme Court has taken a number of patent cases in recent years and in most of them has reversed CAFC decisions and criticized the court's established doctrines. Does this worry you?

For many years the Supreme Court accepted fewer patent appeals than our circuit's share of Court review. Whether we are now seeing renewed interest, or a fortuitous confluence of important issues, I welcome any added attention we may be getting. Perhaps it reflects the importance of technology in today's industrial economy, and recognition that the courts have traditionally had a major role in the development and application of patent law.

Does the US patent system need reforming?

I do not discourage reform – indeed, reform has been the story of my life – but better ideas appear to be needed than some of those currently proposed.

The need is not for reforming, but the system may well benefit from an updating. There is room for major adjustment in order better to serve those areas of modern technology that fit only uncomfortably into today's one-law-fits-all – areas such as computer software and business methods, and perhaps some aspects of biological science.

I continue to wonder whether the United States should have some form of short-term patent, such as exists in some countries under the general designation petty patent. Such patents may be examined only for novelty (thereby reducing the examination burden) and in some concepts would be infringed only by copying; they may particularly serve fast-moving technologies.

I also think we must search for a better system of handling some aspects of patent litigation, for the cost and time are a heavy burden, and the interest of justice is too

often a casualty. For example, many patent disputes that reach our court are resolved on claim construction; perhaps there should be a new kind of tribunal in which technologically experienced judges would resolve the scope of issued patents. If patent claims can be readily and expeditiously construed in a binding proceeding; if a significant number of disputants are able to avert the intrusion and delay and cost of litigation; such an approach could be valuable.

Although I think that creative updating should be pursued, I am reminded that the present law has supported the most productive technological advances in the history of the nation. It is this success that has stirred the pot of controversy. Let us not allow narrow interests to create global unrest. Let us not forget the lessons of history.

Bruce Jackson of Microsoft has called for more women to enter the field of intellectual property. Why do you feel it is such a male-dominated arena, and how much have you seen this change during your career?

In the past, as more women entered the law, the need for a science or engineering background to practise patent law may have explained the relative absence of women in this field. Today, as more women achieve these credentials, the balance in patent law should also change.

Many technologically qualified women have come to our court as law clerks and have proceeded to quite competitive practices. Their experience may encourage others. Although complete equality of opportunity may not yet be at hand for women, so much has changed during my career that I am optimistic for the future.

How do you see the legal landscape with regards to patents developing over the coming years? Do you have any concerns?

I have stressed, in answering these questions, that the patent law serves the industrial and economic foundations of the nation. However, I remain concerned that economists, as well as lawyers and judges, do not always understand the relationships, despite their powerful impact on the economy and the culture. The future legal landscape for patents depends on this understanding. I do observe that scholarship in this area is evolving, lending confidence for the future. But for this confidence I would indeed be concerned. ■

Kevin Rivette

Interview by Joff Wild

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

It was a very unexpected and great honour. I looked over the list of other inductees and I'm not sure that my contributions truly rank with their accomplishments.

How did your career begin in intellectual property?

I did not plan to become a patent attorney. I started working in a patent law firm as an antitrust law clerk working on patent litigation and it kind of snowballed from there.

When did you first begin to think of IP as a business asset in the way you described in *Rembrandts in the Attic*?

I was working at the patent law firm in the 1980s, while the US was linking IP protection with most favoured nation status and Gerry Mossinghoff was helping to set up the CAFC, when I started thinking about patents as a new asset class. In the 1990s I started thinking about the strategic business implications of patents and I started Aurigin to visualise the patent terrain for strategic patent decision making. One of the gratifying things that came out of Aurigin is that the tools we developed are currently being provided by Thomson and are used globally by all industries. Recently, I was even having discussions with Chinese companies and ministries that use our old tools.

Did the response the book received surprise you?

I was very surprised at the response to *Rembrandts*. When I wrote it I was concerned that my editor at Harvard Business School Press, Hollis Heimboach, might be my only reader.

What do you think the book achieved?

I really don't know how to answer this question. I know that the book has been translated into seven languages, is being used in business and law schools, and is still being read today. I know that it has allowed me to get to know and work with some of the most interesting, smartest and nicest people I have had the pleasure to meet. As a more global perspective on any impact it might have had on the industry, I will leave that to other people to figure out.

If you compare the world of IP described in *Rembrandts* to the way it is now, what do you think have been the major changes?

I think that many of the things I wrote about in *Rembrandts* have come to pass. IP is much more of a business tool today than when I wrote the book. However, I really believe that businesses are leaving a significant amount of value on the table by overly focusing/relying on the licensing revenue potential of IP. This focus/reliance can become an addiction that prevents the best use/leverage of IP. I think that the next phase of the IP industry will deal with new business models and ecosystem engineering strategies which have the potential to reshape business structures and relationships globally.

Since writing *Rembrandts*, you have had a series of high-profile roles. You left Aurigin, the company you founded, to go to Boston Consulting Group and then you went to IBM, where you were VP of IP strategy. Why such a varied career path?

I very much enjoyed my time with BCG and found the work highly interesting and educational. The ability to work with many of the Fortune 500 companies on serious IP/business issues was great. As for IBM, it was an opportunity I couldn't turn down. For an IP strategist to understand the largest patent holder's IP decision-making process and to be in a position to influence those strategies was very exciting. However, my initial commitment to IBM was for two years and since I want to remain on the west coast in Palo Alto, after two years I decided to leave IBM as planned and come home.

You are currently Chairman of the USPTO Public Patent Advisory Committee – what does this entail?

It is a very interesting time to be the Chairman of the congressionally authorised advisory committee for the USPTO. We have a great committee that provides input to the office on almost any matter that the office is dealing with: fees, policy, performance, budget, goals and so on. Much of the thinking and advice we have for the office should be in our next annual report to the President and the Congressional leaders that is due at the end of November.

How do you react to criticisms of the USPTO with regard to issues such as quality and pendency times?

Quality and pendency are the issues today.

Everything else should be viewed in light of these factors. I accept that any institution of this size can and should be improved as needed. I believe that pendency in some cases is way too long. I think that there are some significant topics related to these issues that must be discussed, such as what is quality and how much information and candour does the applicant owe the system. On the topic of quality, I have heard a lot of critical comments on what is not a quality patent, but very little on how to define a quality patent so that the USPTO can develop guidelines and goals that are satisfactory to most of the business sector. The general press, businesses, academics, the courts, the public and the patent bar all seem to know it when they see it, but have a hard time defining it. This needs to change for the system to progress.

You have visited China a number of times. It is a country that has been lambasted for its IP protection regime. Are such criticisms fair and how do you see China evolving with regard to IP?

Boy I'm glad I got the easy questions! In my experience, the Chinese IP professional at the government level is very sincere in working toward fixing the system. Do all these intentions translate to action on the street? No. Are things as catastrophic as many would have everyone believe? Again, no. Is there work to do? Absolutely. In my limited opinion I see many similarities to the development of IP in China to the development of IP in other countries over the last 50 years. My good friends Mark Blaxill and Ralph Eckardt, with whom I worked at BCG, did an interesting report on this transition about a year ago (see http://www.bcg.com/publications/files/Beyond_Great_Wall_Jan2007.pdf). ■



Josef Straus

Interview by Sara-Jayne Adams

You are one of nine inductees into the IP Hall of Fame this year. How does it feel to be recognised in this way?

I feel honoured to be in such good company – former Justice Laddie, Judge Pauline Newman, Mossinghoff and so forth – it is quite a remarkable thing. I was quite surprised.

What made you decide upon a career in IP law?

As in so many things in life, it was by chance. A certain propensity for technology and natural sciences led me that way because patents are very close to whatever is going on in these areas. Very early on I was involved with genetic engineering and biotechnology in general.

How did your work as a private practitioner lead into professorship, and what do you feel that you can bring to the role having had that experience in the legal market?

I worked for a certain time in private practice but that was in the early stage of my career. Immediately after I received my PhD I switched to research at the Max-Planck-Institut and that eventually developed into various professorships and academia. However, I feel that my time as a practitioner was useful, particularly so for patents. You need a certain involvement in practice – you cannot learn patent law from the books. Practice provides the advantage from time to time of being involved in very complicated cases, but also gives you a broader perspective of the entire field.

You act as a consultant to a number of international IP organisations, including WIPO and the EPO – what does this work entail?

Each of my roles has differed: I've been involved in preparing very basic studies on biotech inventions for the OECD; I've advised the Swiss Patent Office on their last revision of the Swiss Patent Act; I've assisted WIPO and the Indian government in establishing an Indian institute for managing IP rights. Each consultancy role requires something different but it's always been a great experience.

When you look at the European patent system, do you feel that is working effectively?

Well, it is working effectively insofar as the



grant of the European patent is at hand, but I am always upset by the idea that we shall have three systems in Europe in the long term – the European, the Community and the national ones. We have a single market and, on the whole, a single currency, yet you need 30 patents to cover the entire territory. It's not very rational. However, as far as the European Patent Office is concerned, I am of the opinion that it's working quite well. Of course, nothing is perfect.

What are your views on the establishment of a single European patent jurisdiction? Is it realistic and/or desirable?

There is no doubt that it is desirable. I would have no problem if the House of Lords were to be declared the central European court, but what we need is one court that decides in the last instance on the validity, and hopefully also on infringement, of a patent. The current situation is really not acceptable. With each enlargement of the European Community the situation has become more untenable.

I hope that a single European patent jurisdiction is realistic. It should be realistic, otherwise we are really deficient and not competitive in worldwide terms. Competition in the global market is increasingly intense and if we don't react properly we, in the end, will be the losers.

In one of your publications you discuss the issue of quality in the European patent system. How is it possible to quantify and manage quality?

A very important aspect of managing quality is to have a very close interaction between the applicants and the different organs of the EPO; without the feedback from both sides it cannot function. If the new president of the EPO – Alison Brimelow – continues with the idea of outsourcing work to the national patent offices it will be extremely important to have a very close monitoring system and sufficient training in advance. I would be happier to see national patent offices integrated into the EPO. Even with the decentralised system, integration would be a better idea than to have national patent offices in place forever. That's my view, not beloved by many.

The idea that only the yardstick of inventive step will solve all the quality issues of European patents is probably not very realistic. Although it is very important, there are often inventions that, *prima facie*, may appear to be incremental, but in the end turn out to be very important.

If you were to identify one achievement during your career of which you were particularly proud, what would it be?

In 1982, the AIPPI held a symposium in Moscow, when the Soviet Union was under President Brezhnev's rule, that was devoted to the topic of the Inventor's Certificate. The USSR was arguing for the inclusion of the Certificate on an equal footing with patents in the revised Paris Convention. Under the Soviet Union system the Inventor's Certificate acted as an alternative to a patent in which the inventor was honoured in name and awarded a premium, but the exclusive right was held by the State.

The Inventor's Certificate was the only option given to a State employee as the government reasoned that they had financed the R&D necessary to make the invention. I had the task, in Moscow, of comparing the certificate with the employees' inventions regulation in Germany and I pointed out that the major flaw with the Soviet idea was that the cost of R&D would be socialised in favour of the Soviet State; foreign applicants, companies or individual inventors had no other choice than the certificate.

As long as the inventor has free choice it is ok, but once that choice is taken from them by the State it would amount to expropriation of the investment. People from Russia, when they meet me at conferences, still remember this as it was under the rule of Brezhnev and not at all with the climate of the time. More importantly, the Soviets never raised this issue again internationally! This should have been a lesson for those officials who were already ready to compromise. One should never suppress good and rational arguments for the sake of wrongly understood courtesy or diplomacy.

What do you think are the biggest challenges facing the intellectual property sector today and how can they best be overcome?

What is really needed internationally is a sharing of the workload. It really does not make sense to examine the very same invention from the very same inventor based on more or less the same rules in five countries or more. It is totally irrational and I am always against irrationality.

Irrational is also to think that there is a global warming of patents which can be contained. Creative minds in China, Korea, Russia, India, and many Eastern European countries have been unleashed, since the old systems collapsed. For decades they lived under a system that had suppressed all of their creativity and now they will become more competitive. The idea that we can contain the number of patent applications is not realistic. We also have an exponential growth in scientific publications; so, therefore, what is really needed is a better administration of an international patent system in order to master the obvious needs of the knowledge-based and globalised society. ■

Inductees into the IP Hall of Fame 2006

Don Banner: A founding partner of Banner & Witcoff LLP and a former Commissioner of the USPTO. He played a key role in the development of the international IP system.

Heinz Bardehle: Partner of Bardehle Pagenberg with a long involvement in international intellectual property issues, as well as being an adviser to the German government on IP.

Birch Bayh: Former US Senator, now with Venable LLP. A co-sponsor of the pivotal Bayh-Dole Act 1980 that gave US universities much greater freedom to exploit the IP they created.

Friedrich Karl Beier: A founder of the Max Planck Institute and a strong influence on the development of IP law and practice in Germany and Europe.

Johann van Benthem: One of the founding fathers of the European Patent Office (EPO), as well as its first President.

Arpad Bogsch: Director-General of the World Intellectual Property Organisation from 1963-1997.

Edward Coke: Author of the English Statute of Monopolies of 1624, the basis for the distinction between patents of invention and patents given at the caprice of the sovereign.

Thomas Edison: One of the greatest inventors and industrial leaders in history. He obtained 1,093 United States patents, the most issued to any individual.

Kurt Härtel: One of the prime movers behind the establishment of the European Patent Convention and a former president of the German Patent Office.

Victor Hugo: Author, and the Honorary President and founder of the *Association Littéraire et Artistique Internationale*. He was a prime mover behind the creation of the Berne Convention on Copyright.

Robin Jacob: The senior patent judge in the UK. His judgments are highly influential in the European arena.

Thomas Jefferson: Third President of the United States, author of the first US patent law and first head of the US Patent Office.

Klaus-Dieter Langfinger: Head of Patents,

Trademarks and Licences at BASF and a prime advocate for IP rights in Europe.

Bruce Lehman: Former Commissioner of the USPTO, an architect of the Digital Millennium Copyright Act, helped negotiate the TRIPS agreement. Founded the International Intellectual Property Institute in 1999.

James Madison: Fourth US President and credited with including Article III, Section 8 – the Patent and Copyright Clause – in the US Constitution, providing the basis for IP in the basic US constitutional system.

Howard T Markey: A driving force for the creation of the Court of Appeals for the Federal Circuit in the United States and its first chief justice.

Alexander von Mühlendahl: Served three terms as Vice-President of the Office for Harmonisation in the Internal Market (Trade Marks & Designs) in Alicante. A pivotal figure in the creation of the Community trademark system.

Melville Nimmer: Author of a four-volume treatise on copyright written in 1963, and continuously updated since then, which remains the gold standard scholarly resource on copyright in the US and around the world.

Marshall Phelps: The man who took IBM from generating a few million dollars in IP-related annual revenues in 1985 to over US\$1 billion in a little over a decade. Now VP of IP at Microsoft.

Giles Rich: An author of the US Patent Act of 1952, then a highly influential judge at the US Court of Customs and Patent Appeals and subsequently the Court of Appeals for the Federal Circuit.

Frank Isaac Schechter: His 1927 article "The Rational Basis of Trademark Protection" was the birth of trademark dilution as a recognised theory.

Dudley Smith: The prime mover behind the formation of the Licensing Executives Society (LES).

Korekiyo Takahashi: The first commissioner of the Japanese Patent Office and later Prime Minister of Japan. In 1885 he introduced Japan's first patent system by promulgating the Patent Monopoly Act.