



Licensing Executives Society  
LES Benelux

Topic meeting – Thursday 24<sup>th</sup> April 2014

## IP, Tax - Optimisation and Monetisation in the European Union

*This Topic Meeting is held to celebrate the World IP Day 2014*

*World IP Day was established by the World Intellectual Property Organization (WIPO) "to promote discussion of the role of intellectual property (IP) in encouraging innovation and creativity . . . a unique opportunity each year to join with others around the globe to consider how IP contributes to the flourishing of music and the arts and to driving the technological innovation that helps shape our world."*

### Specific Learning Objectives:

- Identifying the main hurdles when restructuring IP for tax optimisation purposes  
An overview of the most favourable European IP income tax regimes;
- Main differences between the different regimes, taking into consideration the IP rights involved, i.e. patents, trademarks, copyright, domain names and the kind of income generated;
  - Selected tax beneficial structures and the incoming anti-abuse-legislation;
- Case Study: company with affiliates and different types of assets in various member states

### Program

**09h15 – 09h45 Registration and coffee**

**09h45 – 10h00 Overview of the day by the Chair**

Achim Krebs, *Partner Haseltine Lake, The Hague*

**10h00 – 10h20 Tax considerations when moving IP for tax optimisation purposes**

- Capital gains
  - Morality of tax optimisation
- Brent Springael, *Head of Tax, Bird & Bird, Brussels*

**10h20 – 11h00 Transfer pricing consideration when moving IP for tax optimisation purposes**

- Introduction to transfer pricing
  - OECD guidelines and proposed changes to chapter concerning valuation of intellectual property
- Gerben Weistra, *Senior Consultant to Charles River Associates, Hilversum*

**11h00 – 11h30 Coffee/tea break**

**11h30 – 12h30 Transfer Pricing**

- Illustration of some valuation models on case study
- David Bissinger, *Manager, Corporate Finance, KPMG Luxembourg S.à r.l.*  
Stephen Alleway, *Partner, Questro International, Zürich*

**12h30 – 14h00 Lunch**

**14h00 – 15h00 Moving the IP where to? Comparison of the available tax regimes (IP boxes) for the commercialisation of the IP in the Benelux / Europe**

- Which tax considerations to make? Is it important where I conduct my R&D or which IP protects my results? How do I benefit from the different systems?
  - Countries covered : Malta, Switzerland, Belgium, Luxembourg, UK and The Netherlands
- Christophe Joosen, *Partner, NautaDutilh, Luxembourg*  
Brent Springael, *Head of tax, Bird & Bird, Brussels*  
Kasper Van Eck, *Partner, Kiveld, The Hague*  
Paul Smith, *Partner, Blick Rothenberg, London*  
Jaap Zwaan, *Local Partner, Loyens & Loeff, Zuerich*

**15h00 – 15h30 Application of the regimes to a real case scenario, Besins Healthcare**

Xavier Dandoy, *Legal counsel, Besins Healthcare, Luxembourg*  
Denis Canet, *Of-counsel, Haseltine Lake, The Hague*

**15h30 – 16h00 Coffee/tea break**

**16h00 – 16h30 Contractual framework**

- Properly covering all rights relating to IP transfers and only the necessary right relating to IP licenses
- Tax clauses often overlooked

Tatiana Kruse, *Partner and legacy head of the IP, Technology and Communications, Denton, London*

**16h30 Conclusions**

Achim Krebs, *Partner Haseltine Lake, The Hague*

**16h45 Networking cocktail**

**Resumes Chair and Speakers**

**Stephen Alleway** is a transfer pricing advisor based in Switzerland, who has more than 15 years' of tax experience in the field of transfer pricing. He has acquired broad experience in leading large global projects for Swiss and foreign headquartered multinationals. Stephen has gained transfer pricing experience in the UK, Australian, and Swiss markets and he has worked across a range of industries and jurisdictions.

**David Bissinger**, Manager, Corporate Finance, KPMG Luxembourg S.à r.l. Daniel joined KPMG Advisory – Corporate Finance in October 2011, after spending 4 years as project manager for domestic and international engagements at the corporate finance team of an advisory boutique in Frankfurt. Before that, Daniel worked 7 years at the project finance & privatization department of another Big Four firm in Berlin. Daniel has experience in the valuation businesses and intangible assets including software, customer relationships, license agreements, technology, patents, trademarks and trade names, and in-process research and development. The purposes of these valuations include financial reporting, mergers & acquisitions, purchase price allocation, tax compliance. He also has experience in credit analysis and financial due diligence in particular for engagements that applied for state sureties/guarantees.

**Denis Canet** joined the Chemistry and Life Sciences team at Haseltine Lake in 2014 from a position as IP Director within an international pharmaceutical group. Prior to this 7-years experience, Denis worked for biotech companies in the UK and in Switzerland, in charge of IP and licensing. He has managed the protection and the in- and out-licensing of inventions dealing with new chemical entities, synthetic peptides and proteins, biomarkers, drug formulations as well as food supplements, bioinformatics processes and therapeutic treatment regimes. Denis has direct experience of USPTO examination and interviews in addition to EPO hearings, oppositions and appeals, as well as a working knowledge of multijurisdictional IP tax planning.

**Xavier Dandoy** joined Besins Healthcare SA in its headquarters in Brussels in June 2007. Since September 2013, he is Legal Counsel and IP manager for Besins Healthcare Luxembourg SARL. In his function, he is responsible for the daily management of the company and of its IP assets, and for the drafting and reviewing of related transfer and license agreements. He is also the global counsel for trademarks within the Besins group. Xavier graduated in law in 2002 (UCLouvain, Belgium) and holds complementary degrees in economics (KULeuven, Belgium) and in trademarks and design (CEIPI, Strasbourg, France).

**Christophe Joosen** is a partner in NautaDutilh's Luxembourg tax practice. He specializes in Luxembourg international tax law. He has extensive experience with the structuring of real estate, private equity, investment funds, capital markets and structured finance transactions. Prior to joining NautaDutilh, Christophe was a partner in the international tax department of a major international audit firm for which he worked for about 9 years in their Brussels, New York and Luxembourg offices. Christophe obtained a master's degree in law (maîtrise de droit) from the Free University of Brussels (Vrije Universiteit Brussel) in 1997, a post-graduate degree in business economy from the University of Leuven (Katholieke Universiteit Leuven, KUL) in 1998. In 2000, he obtained a master's degree in tax management from the ULB Solvay Business School in Brussels. He is admitted both to the Luxembourg and the Brussels Bar (since 1998).

**Achim Krebs** Achim joined Haseltine Lake in 2010 to establish and lead the firm's branch office in The Hague, (Netherlands), from a position as Patent Portfolio Manager at a multinational oil corporation. Achim has considerable experience in the creation and management of cost-effective IP portfolios to suit various business strategies, as well as in contentious matters such as oppositions and litigation. Achim presently co-chairs the Chemicals, Energy, Environmental and Materials Committee of LESI, and serves as Board Member for the LES Benelux.

**Tatiana Kruse** is a partner and legacy head of the IP, Technology and Communications practice in Denton's London office. Tatiana is experienced in advising on complex arrangements for the exploitation of IP and IT in joint ventures and on the IP and IT aspects of acquisitions and disposals of IT and other businesses, in particular long-term outsourcing contracts associated with disposals and where this is a significant commercial basis of the disposal. She has a specific niche, practices in computer games and data processing contracts for e-money and other financial services businesses.

**Paul Smith** joined Blick Rothenberg in April 2012 as a corporate tax partner. He is a Fellow of the Institute of Chartered Accountants in England and Wales and an Associate of the Institute of Tax. He worked in industry as the Group Tax Manager of Allied Domecq plc for five years followed by six years as the European Tax Director at the Prudential Financial Inc. group. He then moved back to the profession joining Grant Thornton where he became Head of International Tax before joining Blick Rothenberg as a Tax Partner. Paul is a regular presenter at tax conferences in London and has had a number of tax technical articles published in journals in the UK, the US and Europe. He has been quoted in the press on tax issues on numerous occasions in the past few years and has been interviewed on BBC radio.

**Brent Springael** is the head of the Tax Group of Bird & Bird's Brussels office. His practice covers the full range of business-related tax matters, domestically and internationally. However, his main areas of expertise are intellectual property related tax matters in a wide variety of sectors, as well as aviation related advisory work. He also regularly advises non-profit associations on their direct and indirect tax status. Brent's international tax experience (including in the private equity sector) is strengthened through his secondment roles with the Luxembourg office of NautaDutilh and the New York office of Sidley Austin LLP. Brent was admitted to the Brussels Bar in 1999 and joined us in 2008. Backed by his experience, Brent has written and spoken extensively on the practical implications of, amongst others, the Belgian and other European patent box regimes, the taxation of copyright income, royalty taxation, aircraft financing, holding company regimes, and non-profit association's tax rules in leading Belgian and international tax reviews. He holds membership of the Tax and Legal Committee of the American Chamber of Commerce (AmCham) in Belgium, and of the Belgian branch of the International Fiscal Association (IFA). He is also an associate member of the Federation of European and International Associations in Belgium (FAIB).

**Kasper van Eck** is Tax Partner at Kiveld International Lawyers. His practice covers the full range of business-related tax matters, domestically and internationally. However, his main areas of expertise are M&A, VAT, transfer pricing, intellectual property related tax matters in a wide variety of sectors, as well as advising on payroll tax and cross border worker related tax and social security issues. Kasper has been involved in numerous transactions involving leading players and covering the entire spectrum of industries such as Private Equity, Venture Capital, Telecoms, IT, Life Sciences and Energy. Prior to joining Kiveld International Lawyers, Kasper held senior tax advisory positions at Bird & Bird LLP and KPMG Meijburg & Co and was a tax inspector at the Dutch tax authorities. Kasper holds a degree in Tax Law from the University of Leiden and is a member of the 'Nederlandse Orde van Belastingadviseurs' ("NOB") and the International Fiscal Association ("IFA").

**Gerben Weistra** is a senior consultant in the transfer pricing practice of Charles River Associates. He is a transfer pricing expert with more than 15 years of experience. During his career, he has advised on a wide range of complex international tax, transfer pricing, and intellectual property valuation issues for multinationals in many industries. His experience includes developing, analyzing, and implementing transfer pricing strategies, including developing new transfer pricing systems in the context of international tax restructurings and addressing operational aspects and practical implications of transfer pricing; permanent establishment and branch capital allocation matters, documentation and advice on documentation strategies; transfer pricing for financial transactions; and identification and valuation of intangible assets. Prior to joining Charles River Associates, he worked as a senior economist at IntraPrice and LECG and as a tax advisor with PricewaterhouseCoopers.