

Topic meeting – 10th of February 2015

Colonster Castle of the Sart Tilman University Campus, Liege, Belgium

Patenting and licensing life-forms. A debate or a reality?

Academic or industrial research in life science needs high investment and IPRs to motivate investors. But to what degree can a product of nature such as genes, proteins, stem cells, microorganisms, plants, animalsbe patentable? And how can commercial returns be agreed and exclusive rights be granted on such life forms? What are the pitfalls when licensing such technology? The event reviews the main issues in Life Science patentability and licensing in Europe and in the United States. The event also reports on a success story in university licensing by a European consortium.

Programme

08h30 – 09h00 Registration and coffee

09h00 – 09h15 Chair and Introduction: Nicole Antheunis, Patent Manager, Université de Liège

09h15 - 10h15 Harald Schmidt-Yodlee, European Patent Office, The Hague (NL)

Patenting Life Sciences Inventions at the European Patent Office – Where Do We Stand?

“At the European Patent Office (EPO), patents for inventions may be granted if they are novel, involve an inventive step and are industrially applicable. The same holds true for inventions in the context of Life Sciences, subject to specific regulations and restrictions. The presentation provides an overview of Bioscience inventions that are usually patentable and of inventions that are excluded from patentability at the EPO. In more detail the talk focuses on the current practice of the EPO in the light of recent case law for inventions concerning stem cells, plants and medical uses including personalised medicine.”

10h15 - 11h15 Hazel Ford, Finnegan, London (UK)

Can life sciences inventions still be patented in the United States?

“Following the Mayo, Prometheus, and Myriad court decisions in the U.S., the life sciences community has been watching closely to see the impact these cases would have on their industry. The United States Patent and Trademark Office (USPTO) has provided guidance on how it intends to apply these decisions in patent prosecution. We will discuss how natural product and diagnostic method claims are being examined by the USPTO in light of these decisions, and provide practical advice on the types of claims that may currently be obtainable.”

11h15 - 11h30 Coffee/tea break

11h30 – 12h15 Panel with Harald Schmidt-Yodlee, Hazel Ford and Ann De Clercq, De Clercq & Partners, Sint-Martens-Latem (BE) and Vinciane Gaussin, Welbio, Liege (BE).

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12h15 - 14h00 Lunch

14h00 - 15h00 Andrea Kamage, Johnson & Johnson, Leiden (NL) and Bruno Vandermeulen, Bird & Bird, Brussels (BE)

Life Science Licensing issues in Europe and in the United States Can non patentable subject matter be licensed ? What are the contractual pitfalls when ethical or regulatory problems intervene ? Are there competition issues ?

15h00 – 16h00 Jacques J.M van Dongen and Emmy van Oosterom, Erasmus MC Rotterdam (NL)

University licensing of jointly owned research results and inventions of a European Consortium. Patenting and commercialization for the purpose of supporting the ongoing scientific collaboration and improvement of diagnostic tools. A success story and the challenges encountered.

16h00 **Cocktail**

Resumes speakers, panellists and chair

Nicole Antheunis Dr, CLP, is Patent Manager at Université de Liège since 1999. She is also senior lecturer of Intellectual Property at the University. Nicole is a member of LES Benelux, ANBPPI, CIPA, LIEU and ASTP-PROTON Europe. She is actively involved in the Exam Development Committee for Certified Licensing Professionals. Nicole has worked earlier in his career as research scientist and patent agent at Dow Corning. She is Doctor in Science from ULB and has learned Intellectual Property at Université de Strasbourg.

Ann De Clercq holds a Licentiate in Biology (Zoology) and PhD in Plant Molecular Biology from the University of Ghent, Belgium at the Laboratory of Genetics, Department of Plant Molecular Biology. After her PhD she worked as a substantive examiner at the European Patent Office in Munich, Germany. She afterwards headed the Patent Department of Innogenetics NV, (Belgium) a biotech company active in human healthcare. She is a qualified Belgian and European Patent Attorney and founding partner of De Clercq & Partners CVBA. Ann is the Chairwoman of the Biotech Committee of the Institute of Professional Representatives before the European Patent Office (EPI) and a Substitute EPI Council for Belgium. Ann is further a member of LES, AIPPI and the "Genootschap voor Intellectuele Eigendom" (Society for Intellectual Property in Flanders). Ann has lectured on several IP related topics, at conferences, the Vlerick Leuven Gent Management School, the University of Antwerp and the Free University of Brussels, and is also a lecturer at the CEIPI courses (KVIV in Antwerp) for patent attorney trainees and patent paralegals.

Jacques J.M. van Dongen studied Medicine at the Erasmus University Rotterdam (Rotterdam, the Netherlands) and received his M.D. degree in 1981. From then on he worked in the field of immunology research, with special focus on human T- and B-cell differentiation as well as lymphoid malignancies and immunodeficiencies. He initiated the immunodiagnostic laboratory of the Erasmus *university* Medical Center Rotterdam (Erasmus MC) in 1985, which has developed into one of the leading centers for immunodiagnostics and translational research of lymphoproliferative diseases and immunodeficiencies in Europe. In 1990 he received his Ph.D. degree (thesis: "*Human T-cell differentiation: Basic aspects and their clinical applications*"). Since 1991 he has been full Professor of Immunology at the Erasmus MC/Erasmus University Rotterdam. His translational research focuses on molecular genetic processes during normal, malignant, and immunodeficient lymphoid differentiation and on the development and clinical evaluation of new immunodiagnostic methods in lymphoproliferative diseases and primary immunodeficiencies.

Hazel Ford is a European patent attorney and chartered UK patent attorney. She has extensive experience drafting and prosecuting patent applications at the European Patent Office (EPO), particularly in the field of biotechnology. Dr. Ford also has experience coordinating patent proceedings internationally. She has broad experience with the Patent Cooperation Treaty (PCT) system, as well as familiarity with the procedures of the U.S. Patent and Trademark Office (USPTO) and other patent offices around the world.

Vinciane Gaussin, General Manager at Welbio combines experience in academic fundamental research and in biotechnology. For over a decade, she headed her laboratory in developmental biology of the heart at the University of Medicine of New Jersey - UMDNJ (USA). She then worked at Cardio3 BioSciences (Belgium) as Chief Scientific Officer, before joining WELBIO as General Manager in 2010. Vinciane is a bio-engineer, obtained a Ph.D. in biochemistry from the Université catholique de Louvain (Belgium) and trained as postdoctoral fellow at the Baylor College of Medicine (USA).

Andrea Kamage is Head of Patents, Crucell, for Johnson & Johnson, where she supports the vaccine and small molecule pharmaceutical businesses of J&J for infectious disease products. Her practice includes all aspects of intellectual property such as patent prosecution, due diligence, transactions, and patent litigation support. Prior to working for J&J, Andrea practiced law at two different American Intellectual Property boutique law firms. During her private practice, she concentrated on pharmaceutical and biotechnology related patent prosecution, opinions and Hatch Waxman litigation. Andrea recently served as Chair of the Pharmaceutical and Biotechnology Patent Issues at the Intellectual Property Owners Association and as President of the New Jersey Intellectual Property Association. She received her Masters of Science degree from The George Washington University and her JD degree from The Georgetown University Law Center, both in Washington, DC.

Emmy van Oosterom graduated at the University of Groningen (Business Legislation and Civil Law). She specialized in Intellectual Property Law. Between 1985 and 1989 she worked as head of the legal department and trademark attorney at a Patent and Law Office in Amsterdam. In 1989 she moved to The

Hague where she joined the Haagsch Octrooibureau as legal counsel and Registered Benelux and Community Trade Mark Attorney. As from 1999 Emmy works as an IP specialist and legal counsel within the Technology Transfer Office of Erasmus MC Rotterdam. She concentrates on legal aspects and structure of collaboration between academia and industry and advises regarding technology transfer, intellectual property protection, licensing and R&D contracts as well as setting up spin-out companies. Emmy is an active member of LES Benelux (past President and Board member) and chaired the organizing committee of the 2000 LES International Conference, which was held in Amsterdam.

Harald Schmidt-Yodlee, DE, examiner, Biotechnology, European Patent Office (EPO) The Hague. Harald studied food chemistry and biochemistry at the Technical University in Berlin and the University of Magdeburg and passed the EQE in 2006. He is a member of an EQE Examination Committee and a local training co-ordinator in the Biotechnology cluster. Joined the EPO in 2001. He participated in the examiner exchange programme with the Japanese Patent Office.

Bruno Vandermeulen is a Belgian IP litigation lawyer, practicing intellectual property law in Brussels since 1990. Bruno is head of the intellectual property department of the Brussels office. Bruno graduated from the Catholic University of Louvain in 1988 and holds a Master of Laws degree (LL.M) from the University of Georgia. Bruno practices in Dutch, French and English. He has experience in all types of intellectual property litigation and has obtained various published case law decisions in patents, trademarks, design right and copyright. Bruno has acquired unique experience in the Belgian cross-border patent litigation disputes and has published extensively about this subject in Patent World, the World Intellectual Property Report, Managing Intellectual Property, Les Nouvelles and Belgian and French legal journals. Bruno focuses his practice on drafting and negotiation license agreements, conducting intellectual property due diligences, litigating patents and trademarks, and advising clients on cross-border litigation strategies in Belgium and Europe. Bruno is past President and Honorary member of LES Benelux Bruno is also a member of the Belgian AIPPI and the Belgian Group of the International League of Competition Law (LIDC). Bruno is an arbitrator with the Belgian domain name dispute resolution center Cepani. He is also a member of the editorial board with "Intellectuele rechten/Droits Intellectuels" (IRDI).

Location and directions

The meeting takes place at the Colonster Castle, University of Liège, Allée des Erables, B-4000 Liège, Belgium. Phone +32 4 366 3020; fax +32 4 366 4595; www.colonster.ulg.ac.be/english/index.html.

Registration

The fee for this meeting will be € 120,00 for LES Members, for members of ASTP-Proton and for members of the University of Liege, and € 180,00 for non-members. The fee includes meeting materials such as programme and participants list, buffet lunch, coffee and tea in the break and drinks after the meeting. Participants 40 years of age or younger receive a €20 discount when that state their date of birth at the registration form.

Granting of study hours and educational points

The amount of study hours is five (5). Please contact the Registration Desk at the day of the meeting for the necessary lists to sign.

Membership

For information on membership of LES Benelux please e-mail to membership@les-benelux.org and more information will arrive at your desk within a few days. Membership information is also available on www.les-benelux.org.

Program and presentations

The speakers at this meeting have been requested to make their presentations available for publication at level 2 (registration required) of the before mentioned web site. The presentations will be available approximately two weeks after the meeting.