Editorial

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Biographical notes: Cherie Ann Sherman is a Professor of Business Law and Information Systems in the Anisfield School of Business at Ramapo College of NJ. She is a patent attorney and admitted to practice law in NY and NJ. She has a Masters degree in Computer Science and an MBA and JD (cum laude), from Pace University, where she studied patent and intellectual property law and was a member of the Law Review. She has published several book chapters on intellectual property law and was outside counsel to Philips Electronics of North America.

Phil Anderson is a Professor of Physics in the School of Theoretical and Applied Science at Ramapo College of NJ. He is an independent inventor, and has 20 years of experience with invention and product development. In addition to a number of research publications, he has 34 US patents, and more than 100 foreign patents. He advises a number of businesses and start-ups on new product development, and serves on private and public corporate boards. He has a PhD in Physics, and an MSEE from Drexel University, and a BS in Physics from Widener University.

Intellectual property (IP) (copyright, trademark and patent) rights, once considered the bailiwick of a small group of elite researchers, are now the focus of corporations, universities and many small businesses around the globe. In the US, for example, almost all research universities now patent and licence technology and even small colleges are becoming involved in this process. This new focus has fostered the formation of start-up companies, generated jobs and created better relations between educational institutions and their communities. The goal of this special issue is to investigate, describe and evaluate the current role IP rights play in facilitating the transfer of technology. With this knowledge, organisations, as well as entrepreneurs, can identify and adopt a strategy to take advantage of IP rights.

One challenge universities face is what to do with the IP they create, especially if the university is a non-elite university without a strong research arm or history of tech transfer. Tarrés and colleagues discuss what universities need to know about porting their scientific inventions to spin-off companies and how this can be beneficial as opposed to licensing technology or contract research. Generally, governments can be enlisted to support this process as it favours the regional economy. The paper highlights the incubator strategies that work best by focusing on the University of Girona's Technological Trampoline, an independent entity, which is part of the technology transfer office. This paper also identifies the necessary resources and the institutional structure and culture requisite for cultivating successful spin-offs.

Striukova and colleagues call upon universities to factor into their IP decision-making the different types of value that patents create. Patents create value not just for individual organisations but also for the systems and structures with which an organisation interfaces internally and externally. Aside from the obvious financial and market value created, patents also generate knowledge spillover, build networks with academics and venture capitalists and catalyse university-industry recognition. For universities, the value that patents create should be weighed against the cost of the patenting process and the recognition that publication, research workshops and meetings may be a less costly alternative, depending upon the goals of the institution.

Many universities produce innovations and patents but are not in a position to develop products based upon their patents. Other entities want access to innovations but cannot mount the research and development activities necessary to generate them. Patent licensing is the happy solution whereby for a royalty payment, both parties can benefit from their shared strengths. However, until recently in the US, if and when it was unclear that a patent was valid, a party looking to use patented technology faced a difficult choice. If the party went ahead with a licence, the party simultaneously lost the right to challenge the patent's validity as licensing was deemed to be an admission of validity under the law. Also, patent holders could aggressively assert questionably valid patents leaving technology users unsure whether to licence a patent or seek a judgement of the patent's invalidity and risk being sued by the patent holder for infringement. Morioka and Weingaertner focus on the recent US Supreme Court case, MedImmune v. Genentech, which has overturned this legal precedent and therefore affects licensing strategy for both the licensee and the licensor. Licensing agreements should now be structured to consider that the licensee may indeed sue the licensor.

Strategic management of IP is also becoming more critical in the private sector due to the mobility of knowledge, according to Rherrad and Gallaud. In their paper, they examine the different types of IP protection in use in French high-tech firms, report the extent of IP protection and identify the factors, which determine the type of IP protection selected. While patents might be thought to be the most favoured method, research shows that they are a relatively ineffective means of protection for European firms but are often adopted for strategic reasons not necessarily related to a particular innovation. Adoption of IP protection varies across sectors and is also related to the type of invention, i.e., process vs. product. Lead-time on competitors and trade secrets are also favoured methods of IP protection and there is a movement toward adopting any and all means of IP protection that can be applied to an invention. However, cooperation agreements are one factor, which seems to work in the other direction as they reduce the propensity to patent.

Allen and Stearns assess IP from a different geographic standpoint, namely, the role of IP in rural areas. They suggest that IP may have a part to play in stemming the brain-drain and wealth decline of rural regions around the world. In particular, public higher education institutions can help reverse this trend through tech transfer, which launches local businesses as well as by conducting research related to the specialties of local technology-based companies. The paper focuses on a pilot project in South Dakota, which tested the various components of a high performance regional framework (HPR), which has the goal of fostering an entrepreneurial culture that stimulates the development of technology start-ups.

In conclusion, like it or not, IP protection should be a consideration of most any organisation, public or private, which hopes to benefit from the global marketplace. It should be noted that IP protection can benefit not only the urban, the well-funded and the powerful but just about any organisation or geographic area with creative brain power. Organisations should seek to develop the structures and cultures, which will provide the most favourable environment for maximising these benefits.