NOTES ON PTC PROGRESS

In October, 1976, the PTC and the Franklin Pierce Law Center began their first foreign exchange program with the Center for International Studies of Industrial Property (CEIPI) of the University of Strasbourg Law School in France. Paul A. Genovese and David K. Pinsonneault were selected to be the first participants in what is expected to be an annual course in licensing technology transfer.

In 1975, the then French Minister of Patents, François Savignon, visited the PTC with hopes of developing joint programs regarding the study of industrial property law in Europe and the United States. During the summer of 1976, President Rines visited Savignon at CEIPI, where he now holds a professorial position, and met CEIPI's Director, J. J. Burst. Concrete plans for the formulation of an exchange program between the two schools were developed at this meeting.

As an explanatory note, CEIPI does not have an educational counterpart in the United States. The Center was created to be the training center in the field of intellectual and industrial property law for lawyers, judges and businessmen. Consequently its "students" are drawn not only from undergraduate ranks but also from law firms, high technology companies and other law schools. The sessions were typical in this respect as the program will be offered annually to licensing executives, patent agents and patent lawyers.

Entitled "Licensing Technology Transfer," the course provided a comprehensive analysis of contemporary licensing practices and negotiations in the European Community. This approach also included treatments of business relationships between Europe, the U.S. and the Third World or "developing" nations. The format, which was designed to take the maximum advantage of each participant's expertise, consisted of morning lectures by distinguished speakers and afternoon workshops. The workshops were critical to the program's success. Problems based on the substance of the morning's lecture had to be analyzed by the participants who were assigned to one of three groups. Each group was responsible for a draft set of solutions or recommendations which were presented orally before the entire "class" at day's end. This was a lengthy and laborious process which produced several worthwhile learning experiences.

The first week of the course served as an overview of licensing technology transfer and set the pace for the final two weeks. Morning lectures covered such basics as the purpose and methods of technology transfer, the economic and political value of world-wide technology transfer, licensing-in, licensing-out, the economic significance of technology transfer to a corporation and licensing negotiations.

The last two weeks were devoted to clause-by-clause studies of the "ideal" technology transfer contract. The second week included discussions about the role of patents and know-how in licensing agreements, while there was a careful treatment of supply obligation, guaranty, secrecy, duration, termination and remuneration clauses. The final week included a critical analysis of the development of U.S. and European antitrust law as that relates to licensing; restrictive legislative tendencies relating to patents and technology transfer in "developing" nations (using a Latin American example); and a final case study/workshop that sought to tie in concepts developed during the entire session.

Reportedly, the first week was sometimes whimsical, and more philosophical than the succeeding two. It appeared as though technology transfer was perceived as an end in itself, without regard to whether there was a genuine need or desire for world-wide industrialization. However, discussions about the rapidly developing power of Third World or "Group of 77" nations with respect to their ability to compel contractual clauses on their own terms was startling and brought out the serious nature of the problems. It is worthy to note that the European notion of a mystical and powerful U.S. antitrust law continues to be enhanced. A number of the licensing professionals present at the sessions were at one time or another induced into less favorable terms when their U.S. counterpart claimed that to do otherwise would violate antitrust laws.

The rest of the sessions provided a no-nonsense approach to contract writing and negotiation. The conflicting laws on patents and competition within the European Economic Community were explained and their application to licensing contracts explored.

The Franklin Pierce Law Center and PTC Research Foundation would like to take this opportunity to thank the French hosts and instructors for their hospitality they showed to our students and dedicated efforts to provide a valuable experience. It is hoped that programs of this type will continue in the future in order to provide a greater understanding of problems in intellectual and industrial property law on both sides of the Atlantic.