Ljubljana Talk
1994

FPLC: Intellectual Property Programs and Projects

Franklin Pierce Law Center (FPLC), the very best law school in New Hampshire — the only one — is very grateful for the very kind invitation by our President, Professor J. Straus, to report, as he put it "on any of (out) actual research projects as well as on "some more general aspects of the FPLC activities."

It's indeed proper and fitting that this be done in this forum because FPLC has carved out a special niche and status in intellectual property IP education, training and research.

As you will see — it's quite different and unique among American law schools.

A talk given at the 1994 Annual Meeting of ATRIP (International Association for the Advancement of Teaching and Research of Intellectual Property), held in June 1994 at Ljubljana, slovenia. This talk was one of two presentations on Research Institutes and Research Projects, the other featuring Jagiellonian University, Karkow, Poland (Professor J. Szwaja).

If course, I'm fully cognizant of the fact that in our big wonderful world if IP, everything centers on and revolves around WIPO and MP — the meccas of IP teachers and practitioners! Don't we all make our pilgrimages to Geneva and Munich?

Now as far as my talk this afternoon is concerned, I'm glad Professor Straus asked me to go also into general aspects of FPLC activities also because indeed FPLC with its research projects are closely intertwined??activities in general??talk and by way of ? I do need to briefly and generally ?about FPLC: its history, and its present

status and its institutes and programs.

So here area few interesting relevant facts about FPLC to start out with.

1) FPLC is one of the youngest law schools in America as it was founded only in 1973. It was supposed to be MIT's law school with Science and Technology orientation. Might not have done as well.
2) It was named after Franklin Pierce, the fourteenth President of the United States and the only President from New Hampshire.
3) A ? is the smallest independent law school in the United States, i.e. it is not associated with the University of New Hampshire, as is wrongly assumed, nor with any other university or institution.
4) Its student body comprises about 400 students give or take a few and one-third of whom specialize in Intellectual Property.
5) It is fully accredited by the American Bar Association and New Hampshire's Higher Education Commission.
6) By the way, its founder and present Chairman, Dr. Robert Rines, is an engineer, an inventor, an entrepreneur, a patent lawyer, a law professor, a composer — a true Renaissance man.
7) From the beginning it has had three missions:
    1) Law/Science narrowed to IP (don't have breadth from Law/Science) (can't cover the entire Law/Science spectrum)
    2) Different ??non-traditional, entrepreneurial legal education — BMA's: bridging semester, intensive semesters? Innovator in legal education
    3) New Hampshire Law School.

Now, in spite of its

small size

its tender age,

it's out of the way location and its lack of an endowment or other significant financial resources FPLC can be considered as one of America's if not the world's leading places of IP training. In fact when in 1992 US News & world Report started to rank American law schools (all 176) also in several areas of specialization, e.g. International Law, Tax Law, Health Law, environmental Law and IP Law, FPLC appeared in third place; it was in fourth place in 1993 and in 1993 i again was in third place, tied with New York University and Stanford University.

So FPLC is solidly in the top five American law schools out of 175 in our field of specialization. Too good to be true!

By the way, this ranking is based on input by law school deans and faculty as well as lawyers and judges.

Internationally, we are also on the map because we draw students regularly from over twenty countries for our unique Masters Program (MIP) — the jewel of our academic programs — and our Summer Programs — which I'll describe later in greater detail. In fact, we've had students from the four corners of the world, including such places as Mongolia.

Also, the fact that Korea's International Intellectual Property Training Institute (IIPTI) and WIPO are sending us students reflects our status and at the same time enhances it.

What's behind this recognition? What's our secret" Do we have a secret at all? If so, should I reveal it?

interests in patents, trademarks, trade secrets, technology transfer, computer law and related fields.

In other words the Germeshausen Center was launched with the unique mission to improve, through training and research, the climate for commercialization of technology in the public interest.

Now let me briefly describe some of our academic and other programs, in particular our MIP and our Summer Programs as well as our several conference series.

??where is A

B. MIP

The MIP has been created as a master level degree but not a graduate LL. M.-type law degree inasmuch as some students have technical backgrounds but do not have law degrees. For both foreign and U.S. national who do not need law degrees to become licensing experts, the Diploma and MIP Programs are very appropriate.

These programs are also appropriate domestically to help alleviate the serious shortage of patent professionals through "training individuals as patent agents for six months or one year," as suggested by the Long Term Planning Committee of the American Intellectual Property Law Association (AIPLA). In fact, recent MIP Classes have included domestic students who are not J.D. students or lawyers.

MIP Program participants spend two semesters at FPLC taking a thorough curriculum of academic courses, practical skills training and comparative law exposure. Subjects intensively treated are contract law, patents, technology licensing, trademarks, copyrights, trade secrets, the law of international trading and

business relationship and comparative IP law. Skills instruction covers drafting patent claims, preparing patent applications, designing and drafting technology licenses, managing IP assets, and making legal arguments in mock litigation. In addition, students unfamiliar with the U.S. legal structure are introduced to it through special lectures as well as research and writing exercises.

The third MIP semester places foreign students for one month each at the USPTO or Copyright Office in Washington, DC, in an IP law firm and in the IP department of an American corporation.

In July 1990 the New Hampshire Postsecondary Education Commission extended indefinitely into the future the authority of FPLC to confer the MIP degree, after an initial three-year approval subject to annual reporting requirements. The extension was based on the report of an evaluation team appointed by the Commission. The report cited the "extremely impressive" MIP Program as occupying a "unique niche in legal education worldwide."

In the WIPO/ATRIP Symposium in San Jose, Costa Rica, in 1990, Professor Staislaw Soltysinski, Mickiewicz University, Posnan, Poland, gave a description of FPLC's MIP Program, recognized it as "unique" and recommended its "transplantation" elsewhere in his lecture entitled "Planning of Special Studies on the Protection of Industrial Creations."

The MIP Program began in August 1986 when FPLC enrolled five persons from the People's Republic of China as well as one student from each of five other countries: Taiwan, South Africa, Korea, the Philippines and Singapore.

FPLC also offers a shortened, one-semester Diploma Program for applicants who cannot spend an entire year in residence. The six-month Diploma Program includes the same courses as required in the first semester of the MIP Program; upon completion of the semester, participants take part in a one-month internship at a single U.S. institution.

?Intellectual Property Summer Institute (IPSI) ??1986

The Germeshausen Center also offers courses each summer in IP subjects for law students, lawyers, engineers, scientists and managers. The IPSI offers a seven-week program in June and July comprising two-credit courses on Patent and Trade Secret Law, Patent Practice and Procedure, Licensing, trademarks, Copyrights, Financing and Valuation of Intellectual Property, Intellectual Property Under Commercial and Bankruptcy Codes, Intellectual Property Management, Intellectual Property Research Tools, International and Comparative Copyright Law, and International and Comparative Patent Law. In addition, a one-week Advanced Licensing Institute (ALI) follows IPSI. It is a series of two hour lectures by "name speakers" on advanced topics in which students can earn an additional credit hour and practitioners, CLE credits.

Participants in the IPSI and ALI have come from major U.S. corporations and research institutes as well as from many foreign countries. With the permission of their home schools, law students can apply credits earned in the IPSI and ALI toward the J.D. degree. In 1993 we had students from 48 law schools which do not have many offerings in IP subjects. This is the major reason why both the IPSI and ALI have been such fast growing and highly successful programs.

?Joint JD/MIP Degree Program

In late October 1990 the Law Center faculty approved a program allowing JD degree students to earn both the JD and MIP degrees in a total of three and one-half years or even in three years of full-time study.

The joint degree program will permit FPLC students to obtain both degrees by satisfactorily completing 96 course credits (including 24 in IP courses, in which a B average must be maintained) and a substantive paper or other faculty-approved

project.

The rationale behind the JD/MIP degree program is threefold. First, a student who comes to FPLC to specialize in I within the parameters of the JD degree finds herself or himself in a squeeze. Enrolling in all or most of the IP courses the school offers leaves the student insufficient time to take the general law courses (including all the ones important in IP practice) that they should take or would like to take. Conversely, students who take the general law courses other JD students take may shortchange themselves by electing less than the full complement if IP courses.

Second, the IP curriculum — over 40 credit hours — is so extensive as in reality to amount to a separate degree program, especially when joined with the requirement of completing a substantive paper or project. Many of the FPLC IP courses could be offered at the LL.M. level, as is done in other law schools. Third, earning the MIP as well as the JD degree provides students with accurate credentials. Earning both degrees permits them to demonstrate readily, to potential employers and the rest of the world, that specialization in IP at FPLC means much more than, on the one hand, a few courses in the subject or, on the other, a sketchy general legal education.

Graduates from other law schools will also be able to take advantage of the combined degree program. They can apply toward the 24 credits required for the MIP degree up to 12 IP and IP-related credits earned earlier in their JD degree education.

As regards Conferences, we have, for instance,

1) Biennial Patent System Major Problems Conference

1 day-? discussion

invitation only

25-30

luminaries from bar, corporation, courts, academia
Publish in IDEA
Timely Topics

2) Annual IP Litigation Series
7th : Patent Interferences: At the Crossroads!
is litigation
is very timely and topical — so much so the PTO will make it its national forum for discussion of the newly unveiled Interference Rules.

3) Special Conferences

1) (Patenting in Europe — 2 years ago
2) Genome Conference last year
3) "The Greening of Technology Transfer: Protection of the Environment & IP" April '94
4) Symposium on the Establishment of a new Science Court next Fall

4) INVENTORS ASSISTANCE PROGRAM
4-step supportive self-help program for evaluating and commercializing ideas under the aegis of the New Hampshire Industrial Research Center as authorized by New Hampshire Legislature and Governor.

As regards Research Projects,research done under the aegis of the PTC Research Foundation by FPLC faculty, "Research Fellows" and students. Research Fellows — usually MIP students staying on for another year.

With regard to recent ongoing research projects, the following deserve special

mention:

1. A book entitled "Intellectual Property in Commerce" under preparation by Professor Thomas M. Ward from the University of Maine School of Law and Senior Research Fellow at FPLC and under contract with Clark Boardman Callaghan under the joint sponsorship of FPLC and the Licensing Executives Society. It focuses on the commercial law and bankruptcy aspects of IP transactions.

2. Abolition of Jury Trials in Patent Cases — A team study of the historical use of juries in patent cases in the colonies and individual states and in Great Britain before and at the time of the drafting of the Seventh Amendment to the Constitution.

Prior User Rights — A team study of the experience abroad with so-called "prior user" systems, to be correlated with currently advanced concepts underlying the present "harmonization" deliberations ? for Congress Bob Benson??

??A study on "Provisional Remedies for Trademark Infringement — Worldwide Survey of Trademark Litigation Practices" by Research Fellow Mladen Singer from Zagreb — just finished.

??Intellectual Property Disputes, GATT and WIPO:
Of Playing by the Game Rules
and
the Rules of the Game
by
Bal Gopal Das*
*LL.B. University of Delhi, India, 1993, Master of Intellectual Property [MIP], Franklin Pierce Law Center 1994

??Indunil Nirupadi Abeyesekere
MIP, Franklin Pierce Law Center, 1994
1994-1995 Graduate Programs Research Fellow
1994-1995 Graduate Programs Teaching Fellow
Scholarly Research;
The Doctrine of Fair Use in the Copyright Laws
of the United States and the United Kingdom
Teaching Research:
Development of Course Materials Using Materials
from the United States and the United Kingdom

As also have another category of research projects. Preparation of a research paper, or as we call it — a substantive paper of publishable quality is now part of the MIP and joint JD/MIP Program. In fact some have been or will be published in IDEA or elsewhere. Others are deposited in our Library and are available for reference.

A few recent samples are:
1) Ownership Issues in suggestion Box Ideas (Caroline Horton)
2) Agreement Consummation in International Technology Transfer (Todd Volyn) (published in IDEA V33, No.3)
3) Use of the Delaware Investment Holding Company of IP Assets (Michelle Burke)
4)??

??D Analysis of Biotechnology Stock and Warrant Off-Balance Sheet Financed Research and Development (Sword) Capital Formation Specific To the Intellectual Property Licensing Instruments) (Bradely J. Olson)

Finally, Independent Studies under faculty supervision that students are permitted to engage in for 2-4 credits, often also involve interesting research projects and result in useful research papers.

Now, that you have waited with bated breath for the answer to the question as to what our secret is, here it is which at this point will hardly come as a surprise:
— Founder's vision, and ambition and guidance
— IP mission — not just IP as academic subject but whole process of innovation, entrepreneurship, commercialization. Business faculty integrated with Law/Science or IP faculty
— "Different law school" mission — no class standing practical orientation - McCrate Report
— five full time IP professors, all admitted to the US PTO — rather than merely adjunct professor
— Over 40 credit hours of IP courses
— Unique MIP Diploma, JD/MIP Programs
— Location without the diversion and distraction of big city law schools (where most law schools are located)
— small school — that's flexible and can move fast

--not sure what you want on p.24 and p.25???

Conclusion

Here you have it — our secret, our success formula. How is this for a big story of a little school that could and hence has a nice niche in IP training and research and a bright future?

KFJ/Ruh/9.19.94