

MIPLC

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**Intellectual
Property**
Law Center

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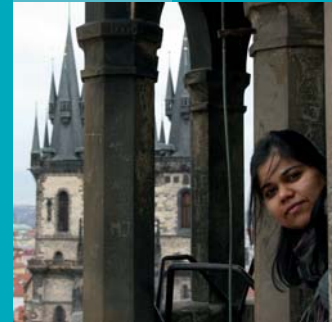


Annual Report Academic Year

0809



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As the new Chair of the MIPLC Managing Board, it is my pleasure to introduce you to the Annual Report for the academic year 2008/09. As in previous years, this report is designed to provide insights into life at the MIPLC, including some more personal aspects.



Prof. Josef Drexler
Managing Board, Study
and Examination Board,
as of 2009

This academic year was marked by changes, most importantly, in terms of personnel. The MIPLC administration alone got three new team members, all of whom were presented in last year's report. On December 31, 2008, Joseph Straus, the founding father of the MIPLC, retired from his position as the Chair after five years in office. It is my honor to be his successor as both the representative of the Max Planck Institute for Intellectual Property, Competition and Tax Law and the Chair of the MIPLC Managing Board. Taking over from Joseph Straus, I was more than pleased with what I found – a well-established program, a dedicated administrative team, and a highly motivated student body.

However, the fact that I had big shoes to step into was made abundantly clear even at the beginning of the academic year 2008/09, when the MIPLC celebrated my predecessor's great achievements with a symposium organized on the occasion of the MIPLC's fifth anniversary, which coincided with his 70th birthday (covered in the previous Annual Report). These events brought together a large number of highly-acclaimed international IP experts, once more confirming the MIPLC's and Joseph Straus' reputation in the IP world.

Looking back on my first year at MIPLC, I am glad to report that it has been a successful one. The academic year 2008/

09 was the first year with a full class of 30 students, who hailed from 20 different countries. Most importantly from an administrative standpoint, we finally achieved full accreditation for our LL.M. program, following a lengthy process begun in 2007. In addition, we organized a trilateral conference on patent exhaustion in cooperation with the European Patent Academy of the European Patent Office, GRUR, and the Japanese Intellectual Property Association; and continued our highly successful SIPO training program.

Another central issue was the set-up of a cooperation framework with the International Max Planck Research School for Competition and Innovation (IMPRSCI), whose students attend selected MIPLC classes as part of their doctoral coursework. Despite initial concerns that this arrangement might have negative consequences for MIPLC students, it has worked very smoothly – in fact, the presence of and interaction with the IMPRS students has greatly fuelled the ambition of some MIPLC students to join the IMPRS themselves after obtaining their LL.M. To my delight, some of our best MIPLC graduates have already succeeded in being admitted to the IMPRS.

Although it is said to “never change a running system,” I still have high aspirations for the further improvement of the MIPLC.

Needless to say, I fully expect our LL.M. program to continue to grow and prosper, and I want to make it the top choice for students from all over the world who want to pursue an LL.M. degree in intellectual property. While the MIPLC is already enjoying a very good reputation – as can be seen from the number and high quality of LL.M. applications we receive every year – I want to achieve an even greater internationality by further diversifying the curriculum and by recruiting more lecturers from Asia and from developing countries in general. More diversity in these areas will also give students an intense exposure to

varied ideas on IP policy and will help them develop their own positions. This is especially important for those students from developing countries who will play an influential role in the shaping of IP legislation in their countries, and thus fits in with the MIPLC's aim of contributing to the strengthening of IP rights in developing countries.

Furthermore, I want to strengthen and diversify our research activities. I see the MIPLC program staff as a driving force in this regard. I am glad that one of our Program Directors, Mr. Seth Ericsson, is a copyright expert who will, during his time at the MIPLC, write his Ph.D. thesis on a copyright issue, while the other, Dr. Nari Lee, will guarantee that the MIPLC will continue to be recognized as a center for competence in patent law.

I am glad to report that thanks to the rising number of self-paying MIPLC students, we will be able to host the first EIPIN conference in Munich during the academic year 2009/10. This conference will confirm the MIPLC's position as a valid and important partner within EIPIN, the network of excellence of European LL.M. programs in IP. Together with our partners, we have made a conscious decision to make the EIPIN conferences events of top-level scholarly debate that bring together our students with leading academics and practitioners in the field of intellectual property. With our EIPIN partners, we will also continue the annual doctoral meetings that allow our Ph.D. students to compare themselves with their peers at other EIPIN institutions.

I am looking forward to many more years of trustful cooperation among the MIPLC partner institutions, fruitful work with the MIPLC staff, and exciting teaching and intellectual discussions with the MIPLC students.

Professor Josef Drexl, LL.M.
Chairman, MIPLC Managing Board



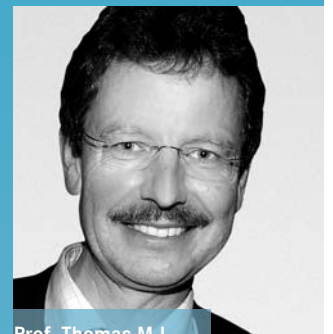
Prof. Joseph Straus
Chair Managing Board,
Chair Study and
Examination Board
until 12/2008



Prof. Christoph Ann
Managing Board, Study
and Examination Board



Prof. Josef Drexl
Chair Managing Board,
Chair Study and
Examination Board,
as of 2009



**Prof. Thomas M.J.
Möllers**
Managing Board



Prof. Robert Brauneis
Managing Board, Study
and Examination Board



Prof. Michael Kort
Study and Examination
Board, Scientific
Advisory Board

1. Organizational and Personal Developments

1.1. Awards and Nominations

In 2009, the Council of the Academia Europaea appointed Professor Straus the first Chair of its newly-established law section.

1.2. Staff

As already detailed in the Annual Report for the previous academic year, the MIPLC administrative team underwent significant personnel changes in 2008/09 with new additions Julia Pracht (Administrative Director), Seth Ericsson (Program Director), and Monika Schönrock (Secretary).

In addition, Dr. Nari Lee joined the MIPLC as Program Director as of September 1, 2009, to provide academic support to MIPLC students and to further strengthen the MIPLC's research profile. Nari Lee studied law at Ewha Womans University in Korea and at Kyushu University, Japan,

and holds a doctor of laws degree from Kyushu University, Japan. Since 1996, she has researched and taught in the area of intellectual property and international trade in universities in Finland and in Japan. She is also a visiting associate professor at Hokkaido University, Japan, where she teaches "Foundation of Intellectual Property Law" and "International Trade Law and Intellectual Property."

1.3. Josef Drexl – New Chair of the Managing Board

Following the retirement of Professor Straus, Professor Josef Drexl took over his seat on the MIPLC Managing Board, which is composed of one representative of each of the four partners. During its last meeting in 2008, the Managing Board unanimously elected Professor Drexl as its new Chair.

Professor Drexl has been a director of the Max Planck Institute for Intellectual Property, Competition and Tax Law (MPI) since 2002. He held full professorships at the law faculties of the Universities of Würzburg and Munich until the end of 2006. During this time, he always worked closely with students and was responsible for building up and directing study programs with an emphasis on European law.

Besides being the Chair of the MIPLC's Managing Board, Professor Drexl is also closely involved in the MPI's International Max Planck Research School for Competition and Innovation (IMPRS-CI) and was instrumental in successfully integrating the IMPRS students into MIPLC classes.

Contributing to the further diversification and evolution of the MIPLC curriculum, Professor Drexl offers the new specialized course "Intellectual Property and Competition", which is held in weekly seminar-style sessions and has proven highly popular with MIPLC students. Students benefit from his extensive experience in a wide variety of IP and competition issues.



Ms. Pracht and Mr. Ericsson with Ms. Fang of SIPO (cf. 3.2)

The MIPLC
Administrative
Team



**Wolrad Prinz zu
Waldeck und Pyrmont**
Program Director
until 12/2008



Seth I. Ericsson
Program Director
as of 2009



Dr. Nari Lee
Program Director
as of September 1, 2009



Margit Hinkel
Administrative Director



Julia Pracht
Administrative Director



Dagmar Klein
Administrative Assistant



Monika Schönrock
Secretary as of 2009

2. Cooperation with Other IP Institutions



The participants of the 10th EIPIN Congress in Strasbourg. The picture shows MIPLC students together with students from the other EIPIN partners. For information on the 10th EIPIN Congress, see section 4.7.

Ever since its foundation, the MIPLC has worked to establish close cooperation with a variety of partners from all over the world. In the period covered by this report, the MIPLC continued to work with existing partners. Synoptic summaries of events during the academic year are presented below. A list of all partner institutions is available at the end of this chapter.

2.1. European Patent Academy

2009 saw the signing of the extension of the Memorandum of Understanding between the European Patent Academy and the MIPLC.

2.2. European Intellectual Property Institutes Network (EIPIN)

As in previous years, the members of the European Intellectual Property Institutes Network (EIPIN) cooperated closely in the framework of the 10th EIPIN Congress (see section 4.7.).

2.3. World Intellectual Property Organization (WIPO)

Due to internal restructuring, the WIPO was unable to accept MIPLC students as interns in the academic year 2008/09 but anticipated internships for future years.

2.4. Supreme Court of Japan

Following the extension of the cooperation between the Supreme Court of Japan and the MIPLC, Judge Dr. Hiromitsu Magira participated in the MIPLC's LL.M. program in the year 2008/09.

2.5. State Intellectual Property Office of the People's Republic of China (SIPO)

Following the successful completion of the first MIPLC-SIPO IP Training Program in November 2008, SIPO sent a second group of IP officials to Munich for a two-week training program. A detailed account of this program is provided in section 3.2.

2.6. International Max Planck Research School for Competition and Innovation (IMPRS-CI)

In the academic year 2008/09, four students from the first IMPRS-CI intake enrolled in MIPLC courses, as per the cooperation agreement between the MIPLC and the IMPRS-CI. This cooperation has proven fruitful for both sides, as the IMPRS students quickly integrated into the classes and cooperated well with the MIPLC students. Thus, both institutions look forward to continuing their cooperation in future years.

The following table provides a synopsis of all collaborations and cooperative activities in which the MIPLC has participated since its foundation in 2003.

Cooperating Partner(s)	Objective(s)	Established in
The European Patent Office / European Patent Academy (www.epo.org/about-us/office/academy.html)	Research Education	2003
The German Federal Patent Court (www.bpatg.de/index.html)	Education (internship)	2003
The European Intellectual Property Institutes Network (EIPIN) (www.miplc.de/about/cooperations/eipin/ ; www.eipin.org/): <ul style="list-style-type: none"> ■ The Master of Advanced Studies in Intellectual Property (MAS IP, ETH Zurich) ■ The Queen Mary Intellectual Property Research Institute (QMIPRI, University of London) ■ The Magister Lucentinus (Universidad Alicante) ■ The Centre d'Etudes Internationales de la Propriété Industrielle (CEIPI, Université Robert Schuman, Strasbourg) 	Education (EIPIN Congress) Research (EIPIN Doctoral Meetings) Career development Networking	2004
EC-ASEAN Intellectual Property Rights Cooperation Program (ECAP II) (www.miplc.de/about/cooperations/ecap/ ; www.ecap-project.org/)	Education Networking Research	2004
The Supreme Court of Japan (www.miplc.de/about/cooperations/japan/ ; www.courts.go.jp/english/)	Education	2004
University of South Africa, Dept. of Mercantile Law (www.miplc.de/about/cooperations/south_africa/ ; www.unisa.ac.za/default.asp?Cmd=ViewContent&ContentID=211)	Research	2004
WIPO Worldwide Academy (www.miplc.de/about/cooperations/wipo/ ; www.wipo.int/academy/en/)	Research Education (internship)	2006
The Chungnam National University of Korea (www.miplc.de/about/cooperations/chungnam/ ; www.plus.cnu.ac.kr/eng/sub0407.jsp);	Research Education	2006
NALSAR University of Law (www.miplc.de/about/cooperations/nalsar/ ; www.nalsarlawuniv.ac.in/)	Research Education	2006
State Intellectual Property Office of the People's Republic of China (SIPO) (www.miplc.de/about/cooperations/sipo/ ; www.sipo.gov.cn/sipo_English/)	Research Education	2007
The Korea Institute for Intellectual Property (KIIP) (www.miplc.de/about/cooperations/kiip/ ; www.kiip.re.kr/eng/)	Research	2007
Dottorato di Ricerca in Diritto Commerciale, Università degli Studi di Catania (www.miplc.de/about/cooperations/catania_dottorato/ ; www.lex.unict.it/dottorato/dirittocommerciale/)	Research Education	2007
Institute of Intellectual Property (IIP) of Japan (www.miplc.de/about/cooperations/iip/ ; www.iip.or.jp/e/)	Research	2007
Center for Studies of IPR of Zhongnan University of Economics and Law, China (www.iprcn.com/en/AboutUs_Center.aspx)	Research Education	2008
International Max Planck Research School for Competition and Innovation (IMPRS-CI) (www.miplc.de/about/cooperations/imprs/ ; www.ip.mpg.de/go/imprs-ci/)	Education	2008

3. Conferences and Training Activities

3.1. Conference “Patent Exhaustion, Repair and Reconstruction”

On May 15, 2009, the MIPLC organized a one-day conference on Patent Exhaustion, together with the European Patent Office/European Patent Academy, Deutsche Gesellschaft für Gewerblichen Rechtsschutz (GRUR), and the Japanese Intellectual Property Association.

The conference was dedicated to current issues of patent enforcement in the context of patent laws and practices in three major patent jurisdictions – Germany, Japan, and the US. The MIPLC was proud to have assembled distinguished



Professor Drexler, right, and Professor Adelman during the panel discussion

speakers from all three jurisdictions, who discussed three topics in particular – patent exhaustion, contributory patent infringement and the use of an anticompetition-law based defense in patent infringement litigation.

The first session was devoted to the patent exhaustion doctrine which has recently gained considerable interests in both legal practice and in academia. The speakers discussed in particular how repair and reconstruction and the replacement of parts may be treated under the patent case laws in the US and in Japan. Judge Randall Rader of the U.S. Court of Appeals for the Federal Circuit presented a general policy reason and history of patent exhaustion in US law, contrasting implied license theory that arguably high-

lights the intent of the parties, and the first-sale rule. He then critically evaluated the recent Supreme Court case *Quanta v. LGE* from this point. Then-Judge of the Tokyo IP High Court Ryoichi Mimura furthered the discussion on patent exhaustion with the two Supreme Court decisions in Japan, *BBS Parallel Import Case* and *Canon Ink Cartridge Case*.

The second session focused on the topic of contributory infringement. Former Presiding Judge Gisbert Steinacker of the Patent Senate, Düsseldorf Court of Appeals, explained the recent debates on contributory and indirect patent infringement in Germany. Takamitsu Shigetomi, Esq., OH-EBASHI LPC & Partners, Osaka, explained indirect infringement under Japanese patent law, focusing on the interpretation of the Article 101 in Japan. Professor Margo Bagley, University of Virginia Law School, presented the developments on contributory infringement case laws in the US.

The speakers at the last session discussed whether objections based on anti-competition can be used as a defense to patent infringement. In particular, the discussion revolved around the question of whether licensing principles such as the FRAND/RAND commitment in the context of standardization can be used as a defense. This topic garnered much interest in the audience, as two cases with similar fact pattern over the so-called Orange Book Standard have been brought before the courts in the US (*Princo Corp. v ITC and Philips*, April 20, 2009) and in Germany (*Case KZR39/06 Orange Book Standard*, May, 6 2009). Professor Katsuya Tamai of the University of Tokyo outlined the anti-monopoly law in Japan and how it applies to the assertion of IP rights in Japan in general. Professor Martin Adelman of the George Washington University Law School, Washington, D.C., followed this discussion on the patent misuse in US patent law. Professor Hanns Ullrich, Max Planck Institute for Intellectual Property, Competition and Tax Law, discussed the different paths of open and proprieta-



Academia meets practice: Professor Adelman and Ms. Iordanova, LL.M. student at Queen Mary, discuss with Mr. Appelt, patent attorney, during the coffee break

ry standardization and the general problems of enforcing FRAND or RAND commitments.

Two panel discussions followed the individual presentations on the three topics. The first panel, consisting of Professor Bagley, then-Judge Mimura, Judge Rader, Mr. Shigetomi, Mr. Steinacker, and Professor Tamai discussed the topic of patent exhaustion and contributory patent infringement. The second panel, consisting of Professor Adelman, former Judge Mimura, Judge Rader, Mr. Shigetomi, and Professor Tamai, discussed current developments in patent enforcement. Not only the panel members but also the audience engaged in spirited discussions on the question of whether exhaustion should be formulated more from the point of the private parties or from the point of the boundary of the right that eventually needed to be decided by the court.

The timely conference theme and trilateral composition of the speakers and the panels were met with great enthusiasm and interests from the IP community. More than 140 persons attended the conference, including international IP practitioners, lawyers, academics and students.



Ms. Piana, Manager Judicial Training Unit at the European Patent Academy, with Mr. Ericsson, MIPLC Program Director

3. Conferences and Training Activities

3.2. MIPLC SIPO IP Training Program

Following the successful completion of the first tailored IP training program in November 2008, the State Intellectual Property Office of the People's Republic of China (SIPO) decided to send another 25-member delegation to the MIPLC for a two-week training session from August 31 to September 11, 2009. This time, the program focused on "IP Strategy and Enforcement". The MIPLC gladly developed a training schedule consisting of academic instruction, presentations held by IP attorneys, and external visits. Again, the MIPLC was able to draw on the ex-

The classroom sessions were complemented by external visits. At BMW AG, Dr. Axel Walz, Legal Counsel, gave a highly interesting and practice-focused presentation on "Trademark Law from the BMW Perspective", which was followed by an extensive guided tour of the production facilities.

At the European Patent Office, Dr. Osona, Project Leader in the Directorate for International Affairs, gave a detailed and insightful presentation about the European Patent Office, the European Patent Procedure, and the EPO-China Cooperation. This was followed by a more specific



On the terrace of the German Patent Attorneys' Chamber

pertise of its faculty members by recruiting Professor Drexl, Professor Kur, Professor Ann, Dr. von Lewinski, Dr. Kroher, Dr. Hertel, Dr. Huber, and Prinz zu Waldeck, to which we added attorney Dr. Dissmann of Bird & Bird and Ms. Mayr of the Customs Administration.

explanation of the EPO Patent Examination Procedure and Appeals and Opposition Procedure, given by senior patent examiner Mr. Daljit Khara.

At the German Patent and Trademark Office, Ms. Pamela Wille, the Deputy Head of the International Industrial Property Section, gave an overview of the duties and organization of the Office. Afterwards, patent examiner Dr. Spieker provided in-depth information about the patent examination process at the DPMA with a focus on biotechnological patents and many useful hints for potential filers. To complete the visit, the group rode the paternoster elevator to the rooftop terrace to enjoy the beautiful weather and impressive birds-eye views of Munich.



Vice-Consul Wang Yanmin and Mr. Liao Bin, the head of the SIPO group

Enjoying views of Munich from the rooftop of the German Patent and Trademark Office

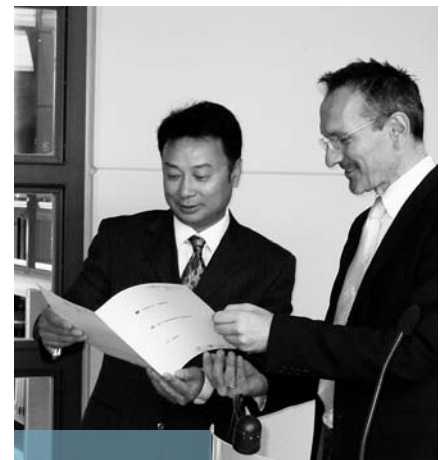


At the German Patent Attorneys' Chamber, participants discuss professional standards for patent attorneys in China and Germany

The training program ended with a visit to the German Patent Attorneys' Chamber, where the participants learned about the duties and training of a German patent attorney from Dr. Böhm, a member of the Chamber's Board. Lively discussions ensued concerning the representation rights and conflicts of interest patent attorneys might face in everyday practice.

Following the conclusion of the program, the delegation continued to Berlin, where the MIPLC had helped arrange a visit to the German Federal Ministry of Justice, and Hamburg.

Both the delegation members and the MIPLC staff were very pleased with the success of the training program. A continuation of this cooperation with additional trainings is envisaged for the coming year.



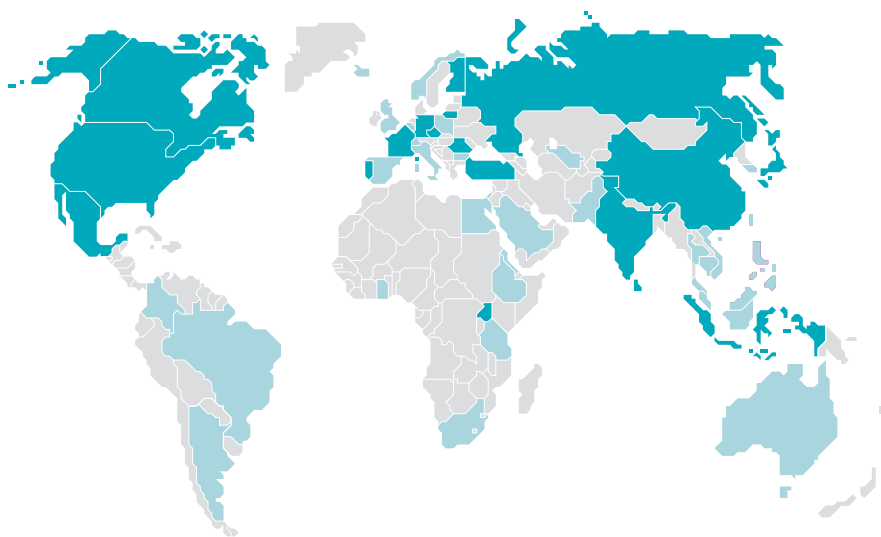
Professor Drexl distributes the certificates of completion to Ms. Fang and Mr. Liao during the closing ceremony

4. The LL.M. Program Academic Year 2008/09

4.1. Students

In the academic year 2008/09, the MIPLC for the first time enrolled a full class of 30 students. This was not only the biggest, but also the most international class ever in MIPLC history, with students coming from 20 countries: Canada, China (3), Czech Republic, Finland, France, Germany, India (3), Indonesia, Japan (2), Lithuania, Mexico (3), Netherlands, Portugal, Romania, Russia (2), Sri Lanka (2), Switzerland, Turkey, Uganda, USA.

As ever, the MIPLC enrolled students from diverse backgrounds. In the class of 2008/09, law was the predominant profession, with 22 students holding prior law degrees. Seven students came from an engineering or sciences background, and one held a degree in Philosophy and Modern Languages.



Map showing MIPLC students' countries of origin. Dark blue: students from 2008/09; light blue: students from previous years.

4.2. Summary of Events

October 2008

- 06 Welcome Day
- 07 Start of winter term
- 31 Study visit to the EPO

November

- 11 City tour
- 27 Oral proceeding before EPO Board of Appeals

December

- 15 Fifth Anniversary (Annual Report 2007/08)
- 16 Christmas Reception at MPI

January 2009

- 23–25 EIPIN Conference in Gerzensee (4.7.)

February

- 23–01/03 EIPIN Conference in Strasbourg (4.7.)

March

- 03 Start of spring break Internships (4.6.)

April

- 06 Start of summer term

May

- 15 Conference “Patent Exhaustion” (3.1.)
- 15 Alumni Reunion
- 16 EIPIN Job Fair

June

- 01–09 Study Visit to Washington, D.C. (4.8.)
- 29–25/07 The George Washington University IP Summer Program (4.9.)
- 31 End of summer term

August

- 01 End-of-Year Excursion (4.12.)

November

- 06 Graduation Ceremony (4.13.)



4.3. Curriculum

The list of courses offered in the academic year 2008/09 is available in Appendix 1.

Based on lessons learned and the students' evaluation of the program, the following changes in the curriculum were introduced:

The basic course European Copyright Law and the specialized course Licensing of IP Rights were restructured and equipped with two professors each, to allow for an even better integration of the course parts.

Professor Josef Drexler offered a seminar-style course on Intellectual Property and Competition Law whose sessions were spread out over the summer term and that required students to hold presentations.

In the context of the GWU IP Summer School, Professor John Whealan offered a specialized course about The Federal Circuit, explaining the unique position and role of the U.S. Court of Appeals for the Federal Circuit.

4.4. Faculty

A list of all active MIPLC faculty members is available in Appendix 2.

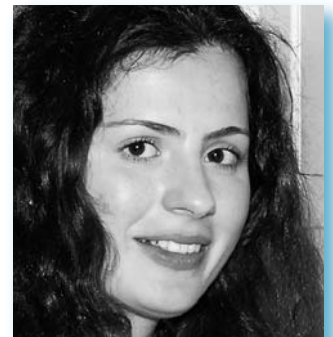
The MIPLC was pleased and honored to welcome to its faculty the following new teachers:

- Professor John Whealan, The George Washington University Law School (The Federal Circuit)
- Professor Sarah Rajec, The George Washington University Law School (TRIPs, Patents, and Public Health)

Dr. Silke von Lewinski lays the foundations for each MIPLC student's knowledge of European Copyright Law, the mandatory course she teaches with Professor Leistner. The head of the International and European Copyright Law department at the Max Planck Institute for Intellectual Property, Competition and Tax Law and an accomplished violinist who has enriched various social events, Dr. von Lewinski has been a founding faculty member of the MIPLC.

Besides European Copyright, she teaches "IP and Indigenous Heritage" during the GWU Summer IP Program. This is a course with high relevance for students from developing countries.

In addition to teaching at a variety of prestigious universities around the world, Dr. von Lewinski has been an expert consulting the European Commission in a number of cases, including on the EC Rental Rights Directive and regarding the WIPO Diplomatic Conference 1996 where she was a member of the delegation of the European Communities. At the WIPO Diplomatic Conference 2000 on Audio-visual Performances, she was a delegate for Germany. She has been the chief legal expert consulting the governments of Eastern and Central European and former Soviet Union countries on their copyright legislation in the framework of the PHARE and the TACIS program and has worked under the subsequent programs established and administered by the European Commission, including in Asia.



Veronika Popelenskaya
Russia

"It was a big surprise for me that a dialogue between a professor and a student can be on equal terms. In my country, a professor is always distanced from a student. At the MIPLC, it was quite the opposite, professors, MIPLC staff and students are one family every member of which is pleased to help you as much as he or she can. I will always remember the numerous office parties and dinners/lunches we had with our professors."

4. The LL.M. Program Academic Year 2008/09



Oliver Galindo Avila Mexico

“The tutorial system is one of those extraordinary features that make the MIPLC stand out among other LL.M. programs. I must confess I was rather sceptic about the usefulness of these aids but now I cannot imagine going through such a hectic year without the guidance of my kind tutor.”



Svetlana Vorozhbit Russia

“The tutorials considerably helped me to understand and memorize the material. It is always helpful when you not only read but have a chance to discuss the material you have read. You go through it once again and tutors can direct you, showing the gaps and inconsistencies in your preparation for an exam.”

4.5. Tutorials

The MIPLC tutorial system scores consistently high marks in the annual program evaluation. Therefore, the system was continued without conceptual changes. Regrettably, some long-standing tutors left Munich and had to be replaced. The replacements are, for the most part, MIPLC graduates themselves. The tutors of 2008/09 are listed in Appendix 2.



Rachel Alemu Uganda

“The inclusion of tutorials as a component of the MIPLC program is one of the very important aspects of the program. As a student, I was able to properly prepare for exams because the tutorials served as a helpful guide. That is, through the tutorials I was able to know what the professors expected from a student in an exam and I also got a better understanding of the various courses. I am currently a tutor at the MIPLC. The role of tutor is quite demanding requiring a lot of time and dedication. Nonetheless I find it a very fulfilling experience because I am able not only to contribute to the success of MIPLC students but also to gain more knowledge.”

Faculty Portrait

Professor F. Jay Dougherty



For several years, Professor Dougherty has brought entertainment to the MIPLC classroom – or at least entertainment’s legal aspects. A former professional rock guitarist and songwriter, who still plays in a band with several other attorneys (and occasionally records jam sessions with MIPLC students), he is currently a Professor of Law at Loyola Law School in Los Angeles.

Before joining academia, Professor Dougherty worked as an attorney representing both Broadway composers and authors and the motion picture industry. In the latter, he stuck to names moviegoers will be familiar with, working in the legal departments of United Artists Pictures and Metro-Goldwyn-Mayer Pictures, later Twentieth Century Fox, where he became Senior Vice-President, Production and Worldwide Acquisition Legal Affairs, and finally serving as Assistant General Counsel for Turner Broadcasting System, responsible for Turner Pictures.

The Beverly Hills Bar Association recognized Professor Dougherty with its “Outstanding Entertainment Law Scholarship” award in 2002, and year after year, MIPLC students recognize him with high rankings for his “Entertainment Law” class, which he teaches with Professor Loewenheim.



Professor Dietmar Harhoff, Ph.D., has been the Director of the Institute for Innovation Research, Technology Management and Entrepreneurship (INNO-tec) since 1998. He studied mechanical engineering at the University in Dortmund and, after working as a research engineer, took up graduate and Ph.D. studies at Harvard (MPA 1987) and MIT (Ph.D. 1991). He currently (2007–2011) holds an LMU Research Professorship to work on the research project “Innovation and Incentives – Towards New Paradigms”. He is also the Research Dean of the Munich School of Management, University of Munich. His research interests include intellectual property, innovation and entrepreneurship.

Professor Harhoff was elected a member of acatech (Deutsche Akademie der Technikwissenschaften) in 2008 and of the German Academy of Sciences Leopoldina in 2010. He was nominated by Managing Intellectual Property Magazine to be one of the 50 most influential people in the field of Intellectual Property (2007); and was named one of the Top 10 Economists in Germany (Handelsblatt May 2005). He chairs the Expert Commission Research and Innovation which advises the German government on issues of innovation policies.

With his strong background combining engineering and economics, Professor Harhoff is ideally suited to teaching “Innovation Policy” and “Intangible Assets Valuation” to our students with strong interests in the business aspects of IP.



Nicole van der Laan
The Netherlands

“The excellent faculty members made studying at the MIPLC especially rewarding. They were all highly specialized experts who had so much knowledge about their area! I particularly like the fact that some classes are taught by practitioners, which really underlines the practical applicability and relevance of the subject matter. Sometimes the practical experience even contradicted the academic viewpoint, which made classes all the more interesting. As a European, I found the American professors’ highly engaging teaching style very unusual, but also very inspiring. It further complemented the international experience.”



Dr. Verena von Bomhard is a partner in the Alicante office of Hogan Lovells International LLP. The office, which she founded in 1996 in strategic proximity of the Office for the Harmonization in the Internal Market (OHIM), deals primarily with Community Trade Marks and Designs and is the largest focused Community Trade Mark practice of any international law firm.

Thus it is hardly surprising that Dr. von Bomhard, who obtained her law and doctorate degrees from the University of Munich, has a professional focus on trademarks and teaches two courses on this subject at MIPLC: “European, U.S. and International Trademark Law”, in which she covers the European legal situation, and “Practical Training in Trademark Law”. This latter course, which she teaches together with P. Jay Hines from the U.S. and which enjoys continuously high enrolment, is highly relevant for those students who pursue a career in trademarks, and highly effective thanks to its strong focus on practical applicability.

Dr. von Bomhard is one of the original MIPLC faculty members who have taught since 2003.

4. The LL.M. Program Academic Year 2008/09



Svetlana Vorozhbit Russia

“The work I did during my internship at a German law firm helped me to acquire very useful skills and knowledge. In particular it was very new for me to deal with the German copyright law in practice when you have to analyse a licence contract which has been drafted from the US law perspective and give your opinion on what would work in this contract and what would not under German law. I gained more from the internship than I had expected. One month is really a very short period but it is enough to see how the working process is organized in a firm and to get some feeling of what it is like to be a lawyer in Germany.”



Teresa Nobre Portugal

“Although I had spent all my professional life working as a lawyer, I had never worked in an IP law firm and I had never been to Brazil. So I decided to complete my internship at the Brazilian boutique IP law firm of an MIPLC alumnus. The opportunity to live in Rio de Janeiro for one month is already truly unique, but the internship played, naturally, the essential role in the whole experience! I had the opportunity to work in all the departments (trademarks, patents, litigation and contracts), which was extremely valuable: I understood the specificities of the Brazilian IP laws and practice, and I got a thorough overview of the structure and organization of an IP law firm. I also witnessed diligences at the Brazilian National Institute of Industrial Property and at the Brazilian Courts, and attended an appeals hearing. I socialized both with the welcoming lawyers and with the friendly staff. All in all, I had the most complete international working experience one could wish for a four-week internship!”

4.6. Internships

As in previous years, all students had to find internship positions in accordance with the degree requirements. This meant that each spent four weeks during the spring break in a law firm, corporate IP department, or other IP organization.

This year, the World Intellectual Property Organization regrettably could not accept any interns due to internal restructuring. Instead, we were able to attract a few new sponsors.

The internship serves to provide students with an opportunity to apply their newly-acquired skills in “real-life IP”, and to add practical experience to classroom instruction. Many students use the internship to get acquainted with a section of IP practice with which they are not yet familiar.

In the academic year 2008/09, our students completed their internships with the following sponsors:



Eiji Fujiwara Japan

“During my one-month internship at the Office of Harmonization for the Internal Market in Alicante, Spain, I drafted three English trademark decisions for for Board of Appeals. My supervisor instructed me and reviewed my drafts kindly and professionally. On the weekends, my wife and I enjoyed an OHIM skiing trip to Sierra Nevada, really delicious sushi in Barcelona, and a paella cooking class with my colleagues from OHIM!”



Oliver Galindo Avila Mexico

“One of the most rewarding experiences during my stay in Munich was the internship I completed at the law firm of Bird & Bird, LLP. The people in the MIPLC office make an important effort to obtain the best opportunities for the students and their endorsement facilitates the application procedures in many companies and law firms.”

Sponsor	Location	Number of Students	Student's Nationality
African Agricultural Technology Foundation	Nairobi Kenya	1	Ugandan
Ashurst LLP	Munich Germany	1	Lithuanian
Bardehle Pagenberg Dost Altenburg Geissler	Munich Germany	2	Chinese German
Bird & Bird	Munich Germany	4	Chinese Mexican Russian
Boehmert & Boehmert	Munich Germany	1	Japanese
Bosch Jehle Patentanwalts-gesellschaft mbH*	Munich Germany	1	Canadian
Court of Cassation*	Bucharest Romania	1	Romanian
Covington & Burling	Brussels Belgium	1	US-American
CPA Global Deutschland GmbH*	Munich Germany	1	Indian
Deutsches Patent- und Markenamt (German Patent and Trademark Office)	Munich Germany	1	Netherlands
Freshfields Bruckhaus Deringer	Munich Germany	1	Chinese
Frohwitter Intellectual Property Counselors	Munich Germany	1	Indian
Hogan Lovells LLP	Alicante Spain	1	Mexican
Howrey	Munich Germany	1	Mexican
Hugo Boss AG*	Metzingen Germany	1	Czech
Intel	Munich Germany	2	Indian Sri Lankan
Intellectual Property Watch*	Geneva Switzerland	1	Ethiopian
Max-Planck-Innovation GmbH	Munich Germany	1	Sri Lankan
Montaury Pimenta Machado Lioce*	Rio de Janeiro Brazil	1	Portuguese
Nokia*	Espoo Finland	1	Finnish
Office for the Harmonization of the Internal Market (OHIM)	Alicante Spain	1	Japanese
Preu, Bohlig & Partner	Munich Germany	1	Indonesian
Siemens AG	Munich Germany	1	Turkish
Vereenigde*	Munich Germany	1	French
Vossius & Partner	Munich Germany	1	Indian



Nicole van der Laan
The Netherlands
Rachel Alemu
Uganda

“After half of year of intensive study, we were glad for the spring break, which allowed us to venture into the practical world of IP: it was time for the internship. We spent a month at the German Patent and Trademark Office in Munich, and at African Agricultural Technology Foundation (AATF) in Nairobi, Kenya, respectively. We were lucky to have a variety of challenging tasks assigned to us by our supervisors and made interesting new contacts. During the internship, you realize how much IP knowledge you have already acquired, and it is very exciting to put this knowledge to use in a ‘real-world’ context. This only goes to show that the MIPLC’s program really does impart applicable knowledge, and lots of it!”

* New internship sponsor

4. The LL.M. Program Academic Year 2008/09



Cao Yi China

“As a participant of the 10th EIPIN Congress, I personally think of the congress as a great bridge that not only connects the students from different institutes to teams, but also contributes and casts the spotlight on the people on the EIPIN stage. All in all, our conference provided a broad overview of the various aspects of intellectual property enforcement. Throughout the program, you could enjoy the team cooperation spirit or chat with potential future bosses. The team reports could even be published (for instance, my team’s report on Research Activity and Research Exemption was published on bepress.com), which would be of most benefit to your educational theory and particular ideas.”

4.7. EIPIN Congress

The EIPIN Congress of 2008/2009 was unusual for at least three reasons: firstly, the participants had a chance to meet only twice, as unlike in previous years, a third conference did not take place. Secondly, the 2008/2009 Congress celebrated a decade of existence and cooperation among the five partner institutions: MIPLC, CEIPI (Strasbourg), MAS IP (Zurich), QMIPRI (London) and ML (Alicante). Thirdly, the MIPLC delegation composed of 13 students and three team advisors had the honor to travel together with Professor Drex1, the new Chairman of the MIPLC Managing Board, as well as with Wolrad Prinz zu Waldeck, the former Program Director, and Seth Ericsson, his successor in that position. Professor Drex1 both chaired some of the sessions and gave a presentation during the second conference.



Gediminas Ramanuskas
Lithuania

“Meeting fellow students from Alicante, Strasbourg, London, and Zurich made the EIPIN Congress most valuable. The beauty and calmness of Gerzensee and the subtle atmosphere in Strasbourg will stay in the hearts of everyone. We were involved in brainstorming sessions, conferences and had a chance to work on joint reports. Well, I must also confess that at the Gala Dinner I found my love. You never know what brainstorming leads to!”

IP Enforcement was selected as the theme of the EIPIN Congress. The focus of the first three-day meeting, which took place in Gerzensee, Switzerland, in January 2009, was on the civil enforcement infrastructure in Europe. Presentations and discussions covered a broad range of enforcement-related matters both in Europe and in the United States. Special attention was paid to the implemented EU Civil Enforcement Directive, and the new range of measures available to right holders was emphasized. The sessions included a discussion of broader discovery procedure and the use of seizure and freezing orders. Professors and professionals in the field, coming predominantly from the European countries, delivered the presentations. While the benefits of the new procedures were clearly presented, the participants also engaged in a lively discussion of limits to civil enforcement, using the example of IP enforcement in the software industry. Finally, alternatives to court prosecution were discussed, whereby especially arbitration as a substitute for court litigation was presented.

Apart from the informative and stimulating presentations, students engaged in lively discussion and had a chance to meet in project teams to develop their academic reports. The project work is designed to allow students to experience international academic collaboration. It also presents the participants with an opportunity to study one of the issues related to the general theme of the Congress in depth. The common projects and breaks helped students to get to know each other better, and to discuss current research interests and future plans.

The second meeting took place in Strasbourg, France, in March. It focused on criminal enforcement matters. Especially counterfeiting was analyzed from various standpoints. During the first day the societal issues of the phenomenon were elaborated on, especially with the view to consumer protection and organized crime. During the second day, con-

gress participants focused on comparing advantages and disadvantages of civil and criminal enforcement mechanisms. A case study was readily provided by European Union's efforts on the Directive Proposal on Criminal Enforcement. The Congress closed with the discussion of selected issues in counterfeiting and criminal enforcement which investigated issues related to counterfeiting of drugs, spare parts and music industry in particular.

In sum, the 2008/2009 EIPIN Congress provided the MIPLC students with an excellent opportunity to explore an important and relevant topic in an international academic environment. The meetings were also invaluable occasions to meet colleagues from other IP centers and to collaborate in an international project.

Agnieszka Kupzok (née Ignaczak)
MIPLC Graduate 2005/06, tutor and Team advisor at the 2008/09 EIPIN Congress

4.8. The George Washington University IP Summer Program

In 2009, the IP Summer Program organized by the George Washington University Summer School took place in the period of June 29, 2009, to July 24, 2009. The program was attended by 21 students and offered a variety of eight classes, six of which were open for registration by MIPLC students as well.

As every year, the two study sessions of two weeks each took place at the MIPLC. The program offered courses on International Patent Law; International Copyright Law; Internet Law; Cross-Border Trade in IP; Theoretical Foundations of IP; Intellectual Property and Indigenous Heritage; TRIPS, Patents, and Public Health; and The Federal Circuit. In addition, the Summer School program included visits to the European Patent Office or the German Patent and Trademark Office. Students had furthermore the opportunity to attend other lectures and activities, to network with the MIPLC students, engage in social activities, and – of course – to enjoy the beer gardens and pubs.



Veronika Popelenskaya
Russia

“What I like best about the MIPLC program is this unique spirit of one big international family. We spent so much time together: listening to lectures, reading endless syllabi, writing our papers and going out – everything together. It’s true, we had almost no free weekends but that is precisely what made our rare weekend trips so fantastic, unbelievable and unforgettable. The program gives you the opportunity not only to study dry theory, but also current practice. Of course, not everything was perfect, but the MIPLC staff always was open to our suggestions, comments and wishes.”



Nishanta Sampath Punchi Hewage
Sri Lanka

“In my view, the MIPLC LL.M. program is one of the best programs for IP studies in the world. It provides a unique opportunity to explore the horizons of IP law and to understand the interface of IP and competition law. Students can form a balanced view on IP law while identifying its parameters. The excellent faculty are undoubtedly the world’s best authorities in their field and I was lucky to learn and discuss the cutting-edge issues with them. Their academic input enabled us to think beyond the conventional wisdom and enhanced our capabilities to undertake research on a wide variety of topics. The program brings in students and professionals from diverse backgrounds and cultures, helping them to exchange ideas, constructively criticize and ultimately helps develop one’s personality.”

4. The LL.M. Program Academic Year 2008/09



Arriving at Dulles International Airport in Washington



Federico Bueno Icaza Mexico

“The trip to Washington was definitely one of the best experiences during my LL.M. program, it was awesome! It was a very intense experience that included many interesting lectures, visits, and even parties with friends from the MIPLC and other universities. I recommend this activity to any MIPLC student wishing to have a short glimpse of the academic life at the GWU and IP in the US.”

4.9. Study Visit to Washington, D.C.

The annual study visit to Washington, D.C., which took place between May 30 and June 9, 2009, was attended by 18 students.

As in previous years, the program was organized jointly with MAS IP (Zurich) and QMIPRI (London) and consisted of a variety of lectures on different IP topics. It furthermore included visits to the U.S. Patent and Trademark Office and to the Court of Appeals for the Federal Circuit. Unfortunately, The Honorable Randall R. Rader, a judge at the CAFC and a lecturer at the MIPLC, was not in session but students enjoyed lively discussions with other judges and with Judge Rader’s law clerks, followed by a behind-the-scenes tour of the Court. The joint program ended with a lecture on “Innovation Management” by Gary Rinkerman and Andres Fortino (NYU) at Drinker Biddle LLP.



A photo-stop at the White House en route to the Court of Appeals for the Federal Circuit



Clément Deviers France

“The trip to Washington was a great opportunity to set foot in those institutions we had already heard so much about: first of all the US partner university, the George Washington University Law School, then the USPTO and CAFC. It also presented a chance to meet colleagues from the EIPIN network on the campus. The evenings were busy with jogging around the White House, canoeing sessions on the Potomac, or concerts in the Georgetown jazz bars. Part of the group then took advantage of the weekend for some sight-seeing in New York. An incredible time for those who had thus far only visited the US from their sofa!”



“Give me your tired, your poor, your brilliant IP students...” Side-trip to New York City



Visiting the French Embassy for a jazz concert



At the CAFC, where Judge Rader's clerks patiently answered questions

4. The LL.M. Program

Academic Year 2008/09



Teresa Nobre Portugal

“Writing a Master’s thesis in just a few weeks is not easy. And if you make the mistake to be more ambitious than the time, you may miss the deadline. The truth is that, with more or less frustrations, we all survived to this last test. Take me as an example. I had chosen a very broad topic, which I was able to narrow down, with the precious help of my supervisor. Nevertheless, the topic remained quite complex and there were almost no direct authorities to rely on. Thus, I had to spend most of the time researching and analyzing analogous areas. In the end, I delivered what my supervisor called ‘a spectacular piece of work in a few weeks’ time’, but that at the deadline was still unfinished! At least, I now have a good foundation for something like an article or a Ph.D. thesis.”

4.10. Master’s Theses

Following the completion of their course work, all MIPLC students are required to submit a Master’s Thesis of about 55 to 75 pages. The preparation of this work of in-depth research is a central component of the LL.M. program that requires independent thinking and strong analytical and writing skills.

The students of the class of 2008/09 chose the topics indicated on page 23, which dealt with current issues in the fields of IP and/ or competition law.

The average grade earned for the theses was 12 points on a scale from 0 to 18. This highly satisfactory result demonstrates once more the high academic standard of the theses submitted.

Do’s and Don’ts When Writing a Master’s Thesis

4 Do’s

Do take notes when you collect materials for your Master’s thesis. Write down good opinions on which you could make improvements or references later as well as “bad” opinions which could be the object of attack in your thesis. Summarize the cases to be cited in your thesis in advance, thereby saving time.

Do finish the assignment(s) of every phase listed in the direction of your Master’s thesis on time and leave yourself some time to amend and modify the phased results as required by your supervisor. There is hardly a thesis that would be graded “18” on the first draft.

Do draw an outline of your thesis before you go into details. Said outline can be revised and updated later according to the progress your thesis makes. The configuration and quality of the outline will substantially determine the outcome of your work.

Last but not least, do write the thesis by yourself; otherwise you will pay the price for your negligence.

4 Don’ts

Don’t be too worried about your thesis, but don’t keep a slack hand on it, either. Everyone can definitely complete a Master’s thesis of good quality in time if she/he acts with due diligence. Just do it!

Don’t be demanding on yourself about developing novel points about your thesis topic at the very beginning. If you try your best to understand every aspect of the topic comprehensively in the beginning, then novel, or at least individual, points will automatically be generated by the time you reach your conclusion. Sandra Bullock never thought to win an Oscar when she decided to take the role in “The Blind Side”. Likewise, we can hardly derive new points just as we write the first few lines of our thesis.

Don’t care too much about how many words and/or pages you have written already. You can always add new content to or delete existing content from the thesis, so as to meet the page requirements.

Don’t hesitate to turn to people around you, including, but not limited to, your thesis supervisor, tutor, classmates and professors of MIPLC when you get in trouble. Two heads are better than one!

Zhenhua Ni

Name	Country of Origin	Topic of Master's Thesis
Abate, Dirshaye Solomon	Switzerland	Compromising Victories: File-Sharing and The Failings of Digital Music Copyright in France and the USA
Agarwal, Shuchi	India	Distributed Divided Infringement Analysis for US and Indian Patent Law
Alemu, Rachel	Uganda	Intellectual Property Rights for Plant Varieties and the Implications for Food Security in Uganda
Breitinger, Beatrix Cornelia	Germany	New Uses and Copyright Licenses – A Comparative Study of German, US and French Copyright Law
Bueno Icaza, Federico	Mexico	The Protection of Well-known Trade Marks in the European Union, Mexico and the United States
Cao, Yi	China	Protection of Trade Secret in Confidentiality Clauses of Licensing Agreements under Chinese Law
Ciocea, Mihaela	Romania	Interference of Abuse of Market Dominance and Intellectual Property Rights in Licensing Contracts from the European Perspective
De, Amardeep	India	A Tangible Solution for Intangible Economy
Deviers, Clément	France	EU Non-Patent Protection of Orphan Drugs and Paediatric Pharmaceuticals
Fujimoto, Eiji	Japan	Public Disclosure of Clinical Study Reports under Information Disclosure Law: Comparative Analysis in Japan, the United States and Europe
Galindo Avila, Oliver	Mexico	Innovation as a Means for Development – What can Mexico Learn from Japan?
Gümüş, Ismail	Turkey	University Patenting
Hurtado Cruz, Marina Janet	Mexico	NAFTA and Its Impact on Technology Transfer in the Pharmaceutical Industry in Mexico
Jahja, Prudence	Indonesia	Limitations on Exclusive Rights in the Protection of Well-known Marks in Indonesia (Davidoff Case Study)
Karger, Tomas	Canada	Research and Development Habits in the USA during Economic Recessions: A Study of Patent, Trademark and R&D Trends
Magira, Hiromitsu	Japan	Does Patent Law Prohibit Recycling Business?
Mendis, Sunimal	Sri Lanka	Copyright, the Freedom of Expression and the Right to Information: Exploring a Potential Public Interest Exception to Copyright in Europe
Ni, Zhenhua	China	A Comparative Study of the Patent Term Extension System due to Delay in Regulatory Approval in the Pharmaceutical Industry of the US, Japan and the EU
Phadnis, Gaurav	India	A Comparative Analysis Regarding Patentability of Business Methods in the Industrialized Nations and Its Significance for a Fast Emerging Economy like India
Popelenskaya, Veronika	Russia	Overlapping between Trademarks and Domain Names: Law Cases in Germany and Russia, Comparative Analysis on the Example of "eBay-Anwalt" Case in Germany and "odnoklassniki.km.ru" Case in Russia
Punchi Hewage, Nishanta Sampath	Sri Lanka	IP and Antitrust Issues in Patents and Tying: The US and EU Perspectives
Radhakrishnan, Vinita	India	Scope of Gene Based Patent Claims in US, Europe and India: A Comparative Study
Ramanauskas, Gediminas	Lithuania	Secondary Liability of Copyright Intermediaries – A Comparative Analysis
Raposo Nobre, Teresa Isabel	Portugal	Recognition and Enforcement of Intellectual Property Judgments: The Conflict between Crystallized Policies and (Des)territorialized Rights
Simonovska, Zuzana	Czech Republic	Parallel Imports and Trademark Protection
Väisänen, Tuire	Finland	Enforcement of FRAND Commitments under Article 82 of the EC Treaty: The Nature of FRAND Defence in Patent Litigation
van der Laan, Nicole	Netherlands	The Effectiveness of Copyright for Future Design – A Comparison of German, British and Dutch Law
Vorozhbit, Svetlana	Russia	Means of Preserving, Obtaining and Presenting Evidences Regarding Infringement of Intellectual Property Rights in the EU and Russian Federation
Yang, Jin	China	Administrative Protection of Intellectual Property in China

4. The LL.M. Program Academic Year 2008/09



Vinita Radhakrishnan India

“After working as a patent agent with a leading IP company in India for three years, I realized that a strong foundation in IP theory and jurisprudence would substantially add to the quality of my work products. On reviewing the programs offered by various institutions across the world, I came to understand that the MIPLC combines theory with practice without losing sight of the requirements of international students. The comprehensive syllabus, the constitution of the class, and the quality of professors placed this program over and above all other existing programs offered across the globe and made it easy for me to make my decision to join MIPLC. And I am surely not disappointed with my choice. The diversity of the class helped me get a comparative picture of IP laws in more than 19 jurisdictions. Also, the spectrum of elective courses offered by MIPLC enabled me to design my course to be in line with my career plan.”

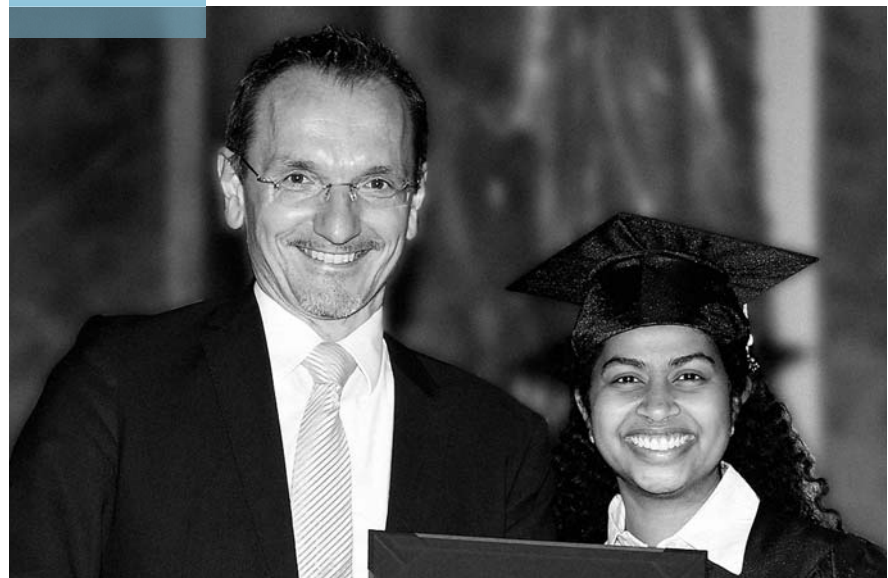
4.11. Overall Results and Oehm Prize

To calculate the final grade a student has achieved, the grade earned for the Master’s Thesis counts just under one-third, while the grades attained in the courses contribute a little more than two-thirds.

The average student grade for the academic year 2008/09 was 12 points, which is again highly satisfactory. Of the 30 students in the class, 29 completed the program.

This year’s Oehm Prize went to Ms. Sunimal Mendis from Sri Lanka. The Oehm Prize, awarded annually to the student with the best overall grade, was created from the generous endowment Siegfried and Gertrud Oehm made to the MIPLC.

Professor Drexl presents the Oehm Prize to Ms. Sunimal Mendis from Sri Lanka



Tomas Karger Canada

“I think I may have been one of the only students at the MIPLC that had no experience in IP whatsoever. Furthermore, I started the program late missing the first month of classes which made my LL.M. even more daunting. All of this did little to affect the success I experienced during the program. I have to thank the helpful staff and tutors for working with me to catch up quickly. I also have to thank the professors for succeeding in the difficult task of reaching students from all backgrounds including lawyers, engineers, scientists and journalists. I cannot stress this fact enough. This program deals with some challenging concepts for anyone and the number of hours and amount of reading further challenge students. It is only through the effort of each professor that I was able to succeed. Just do as much of the assigned reading as you can, come to class prepared and you can count on the professors to do their part.”



Svetlana Vorozhbit Russia

“I enjoyed studying at MIPLC a lot. I think that it was one of the most interesting and intensive years in my life. With ‘just’ a legal background, I found it challenging to read patent cases. However, with the help of professors even the process for the manufacture of erythropoietin and requirements for its patentability seemed to be quite clear. Sometimes I felt the program was excessively informative and it was impossible to comprehend all the materials; but as soon as you are involved in the studying process, you see that it is possible to be prepared for the classes and exams, and even have a good time with friends. After the program you feel that you can do anything, you feel confident in the entire IP field. The educational process was well organized. We had all necessary materials, convenient offices, and the invaluable chance to work in the Max Plank Institute’s library.”



Gediminas Ramanaukas
Lithuania

“After the LL.M. 2008/2009 Class graduation ceremony in Augsburg, I reminisced about what made my year in Germany so perfect. My classmates were from completely different cultures, backgrounds, habits, and attitudes. In my opinion, the tough program, the European, US and international professors, the multiple exams, individual and collective assignments, presentations, interaction, travelling, fun, and leisure make a great combination. I loved the library and its basement. If you love snowboarding or mountains, Munich is a perfect spot. I would recommend in particular joining the EIPIN Congress and the US study trip – they make this LL.M. program unbeatable. If you are sensitive to Weisswurst, please bring your own food. The MIPLC LL.M. program is for real friends for life. Greetings to Finland and Mexico!”



Sunimal Mendis Sri Lanka

“The LL.M. program at the MIPLC was the learning experience of a lifetime. The well-structured curriculum which ensured a sound exposure to the many varied dimensions of intellectual property law, and the fact that it was taught by a faculty comprising the ‘who’s who’ in IP helped to make this a truly enriching experience. I loved the way in which this program brought together people from diverse backgrounds and disciplines from all over the world to one classroom and allowed us to learn from each other. The course was very demanding... but then so was the social life and I guess what maintained the balance was the warm and cozy environment created by the MIPLC staff which ensured that every thing proceeded without a hitch. I feel that being a part of this program has given me the necessary grounding and confidence to face a career in IP anywhere in the world, and I believe that to be a true advantage to my future.”

4. The LL.M. Program Academic Year 2008/09



With the excursion taking place on a hot summer day...



... everyone enjoys the coolness in the gorge



Examining the new ski-jump in the Garmisch-Partenkirchen ski stadium



4.12. End-of-Year Excursion

After all exams have been taken, the MIPLC traditionally organizes a one-day excursion to the countryside to “formally” conclude the program – or at least, the classroom part, for at this point, the students still have several weeks of work ahead of them for their Master’s thesis. In 2009, the class made its “Great Escape” to Garmisch together with tutors and staff.

At first glance, an excursion to Garmisch-Partenkirchen and the Partnach gorge, a tried-and-tested MIPLC destination, does not seem very innovative. But again the students enjoyed this excursion very much, thanks to the impressive scenery of both the gorge and the surrounding mountains. It was a wonderful and hot midsummer day and everybody was in a good and relaxed mood. The coolness caused by the raging white water and the water dripping from the rocks throughout the walk were a welcome respite from the heat.

The easy gorge walk was followed by a steep trail which led some students to wonder whether they had enrolled in survival training – despite the fact that they had just come out of much tougher training – but finally the entire group made it to the Partnachalm and enjoyed refreshments as well as the fantastic views there. To our delight, we found ample proof that a year of hard studying dampens neither the spirit nor the physical condition of our students, as all took their time to eat, drink, and chat with one another. If the number of photos tak-

Enjoying the alpine scenery and chats with friends



No rain all day long, just water dripping from the rocks in the gorge



Svetlana Vorozhbit Russia

“Frankly, I had hesitated whether to go to the excursion or not since it was just on the day after the last exam, and all I was dreaming about at that time was to sleep. It was our last trip when we were all together and I’m really happy that I joined it. Everything was just perfect: the weather, the mountains, the company, and the beer.”



Recharging batteries at the Partnachalm

en is an indicator of how much the participants enjoyed the day, then it must have been a blast.

Following the return walk to Garmisch, the group visited the Olympic Stadium to examine the brand-new ski jump facilities there.

The day was concluded by a visit to a Bavarian folklore event in Garmisch, the “Grosse Bayerischer Heimatabend”, at least for those participants who were not yet too exhausted. Thus their study year ended with further Bavarian specialties...



4. The LL.M. Program Academic Year 2008/09

MIPLO March Intellectual Property Law Center
Stanford, Washington DC

Graduation Ceremony
of the LL.M. Program
"Intellectual Property
and Competition Law"
Class of 2009



4.13. Graduation Ceremony

15 of the graduates of 2009 attended the Graduation Ceremony in Augsburg:

Standing, left to right:
Nishanta Sampath
Punchi Hewage, Svetlana Vorozhbit, Rachel Alemu, Mihaela Ciocea, Beatrix Breitinger, Teresa Nobre, Veronika Popelenskaya, Eiji Fujimoto, Federico Bueno, Nicole van der Laan, Gediminas Ramanauskas

Front row, left to right:
Amardeep De, Prudence Jahja, Tuire Väisänen, Sunimal Mendis





Professor Gielen, Chair of the MIPLC Fachbeirat, addresses the audience



Vice-President Professor Loidl conveys the University of Augsburg's congratulations



Eliamani Laltaika, President of the MIPLC Alumni Association, with Beatrix Breitingering and Gaurav Phadnis

4. The LL.M. Program Academic Year 2008/09



The graduates celebrate with their friends



Svetlana Vorozhbit and Teresa Nobre are happy to have successfully completed the LL.M. program

Program

The sixth class of students at the Munich Intellectual Property Law Center has successfully completed the LL.M. Program "Intellectual Property and Competition Law".

We have the pleasure to invite you to the Graduation Ceremony followed by a reception at the Small Golden Hall (Kleiner Goldener Saal) Jesuitengasse 12, Augsburg on Friday, November 6, 2009, at 6:30 p.m.

Prof. Dr. Josef Drexl
Chairman of the MIPLC Managing Board

Transfer bus service from Munich to Augsburg (registration necessary!).
Departure: 3.45 p.m., MPI for Intellectual Property, Competition and Tax Law, Marstallplatz 1/Alfons-Goppel-Str. 1, Munich
The bus will return to Munich at approximately 10 p.m.

RSVP by October 29, 2009 to julia.pracht@miplc.de or phone +49(0)89 2424653 20. Please indicate the number of people in your party and if you will use the transfer service.

Welcome Address Prof. Dr. Michael Kort
Faculty of Law,
University of Augsburg

Address Prof. Dr. Alois Loidl
Vice President,
University of Augsburg

Address Prof. Dr. Josef Drexl
Chairman,
MIPLC Managing Board

Address Prof. Dr. Charles Gielen
NautaDulith NV
Professor of IP Law,
University of Groningen
Member of the MIPLC Fachbeirat

Review and Forecast Tuire Väisänen
Student, Class of 2009
Eliamani Isaya Laltaika
President,
MIPLC Alumni Association e.V.

Graduation of the Class of 2009
Dean, Faculty of Law,
University of Augsburg

Awarding of the Oehm Prize to the student with the best overall grade of the Class of 2009

Reception



“To think that I almost missed my own Graduation... I was lucky enough to secure a job in a reputable patent law firm in Munich directly after the conclusion of the LL.M. program, but unfortunately I was so caught up in work on the Big Day that I had to drive to Augsburg at breakneck speed. It was rush hour on a Friday and I was so worried I would be late! Thankfully, I arrived in good time before we stepped onto the stage dressed in caps and gowns. It was so good to see everyone again before being scattered across the seven seas and to celebrate with friends and family in the beautiful Small Golden Hall. All in all, it was the exciting conclusion of an exciting year.”



Students of the MIPLC Class of 2010 also attended the Graduation



Several graduates were accompanied by their parents and/or spouses



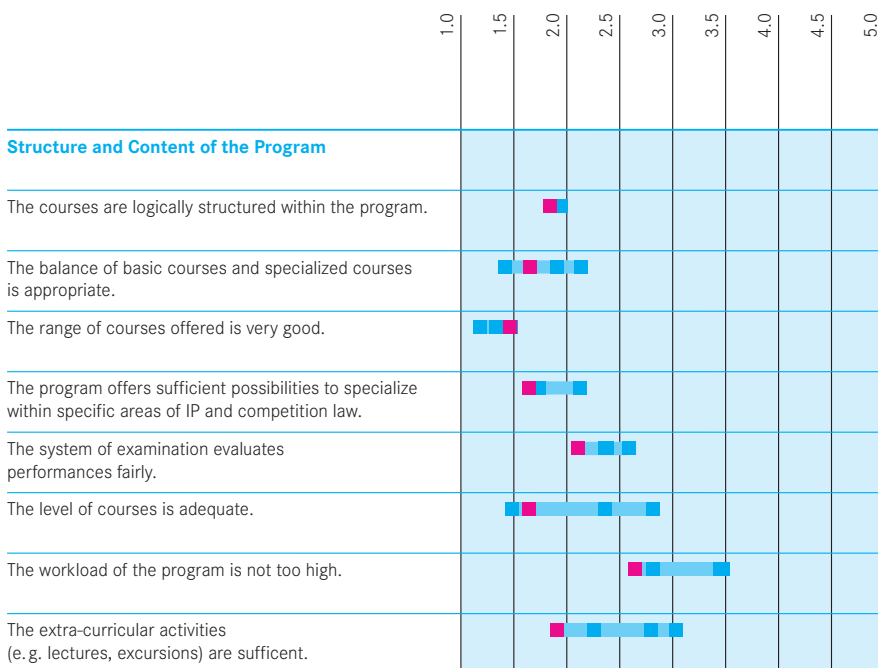
4. The LL.M. Program Academic Year 2008/09

4.14. Quality Management – Evaluation of the Academic Year 2008/09

4.14.1. Lecturer Evaluation

As every year, all students were encouraged to evaluate their lecturers after each course. The standardized evaluation forms cover a variety of issues, such as reading materials provided before the class, the presentation of the materials, the professor's teaching style and ability to clearly convey relevant concepts, and the level to which students felt to have benefited from the course. All questions are graded on a scale from 1 to 5, with 1 being the best. In addition, students can make individual comments. For the academic year 2008/09, the faculty average reached 1.48, which clearly demonstrates that students are satisfied with their professors.

Figure 1:
Students' evaluation of the structure and the content of the LL.M. program, on a scale from 1 (I completely agree) to 5 (I completely disagree). The dots represent the weighted averages of the classes 2004/05 through 2008/09.



4.14.2. Program Evaluation

At the end of the academic year, all students are asked to participate in a program evaluation exercise that covers the program's structure, the course content, the mentoring and support they have received, the MIPLC's equipment, their professional perspectives, and their overall impression.

The following charts present the evaluation results of the past five academic years including 2008/09. As Fig. 1 to 3 clearly indicate, the students have highly consistent opinions over the past academic years. In addition, their assessments are usually in the range of "very good" to "good". The class of 2009 even rated the program's workload, which usually scores significantly lower than the other questions in this category, at 1.79. The overall satisfaction with the program in its current form is 1.36, which is better than the five-year average of 1.54 and in fact the best result this questions has ever achieved.

When looking at the individual results, a clear upward trend over the past five years can be observed (which the graphs unfortunately do not reflect, given that they merely present the bandwidth of responses given). The range of courses offered at the MIPLC received an excellent rating of 1.21, which confirms the MIPLC's policy of further and steadily diversifying its curriculum. As in the past, we were pleased to note that the students' rating of extracurricular activities, such as lectures, roundtable discussions, etc. had gone up.

The course content is evaluated using a different scale to indicate the students' opinion of whether the content level should be increased, maintained, or decreased. On this scale, 3.0 means that content should be kept as it is; anything above 3.0 indicates that content should be decreased, and anything below 3.0 indicates that it should be increased. As per Fig. 2, all responses are within the range of 2.15 to 3.19, showing that students are satisfied with the content. The two new courses introduced in 2008/09,

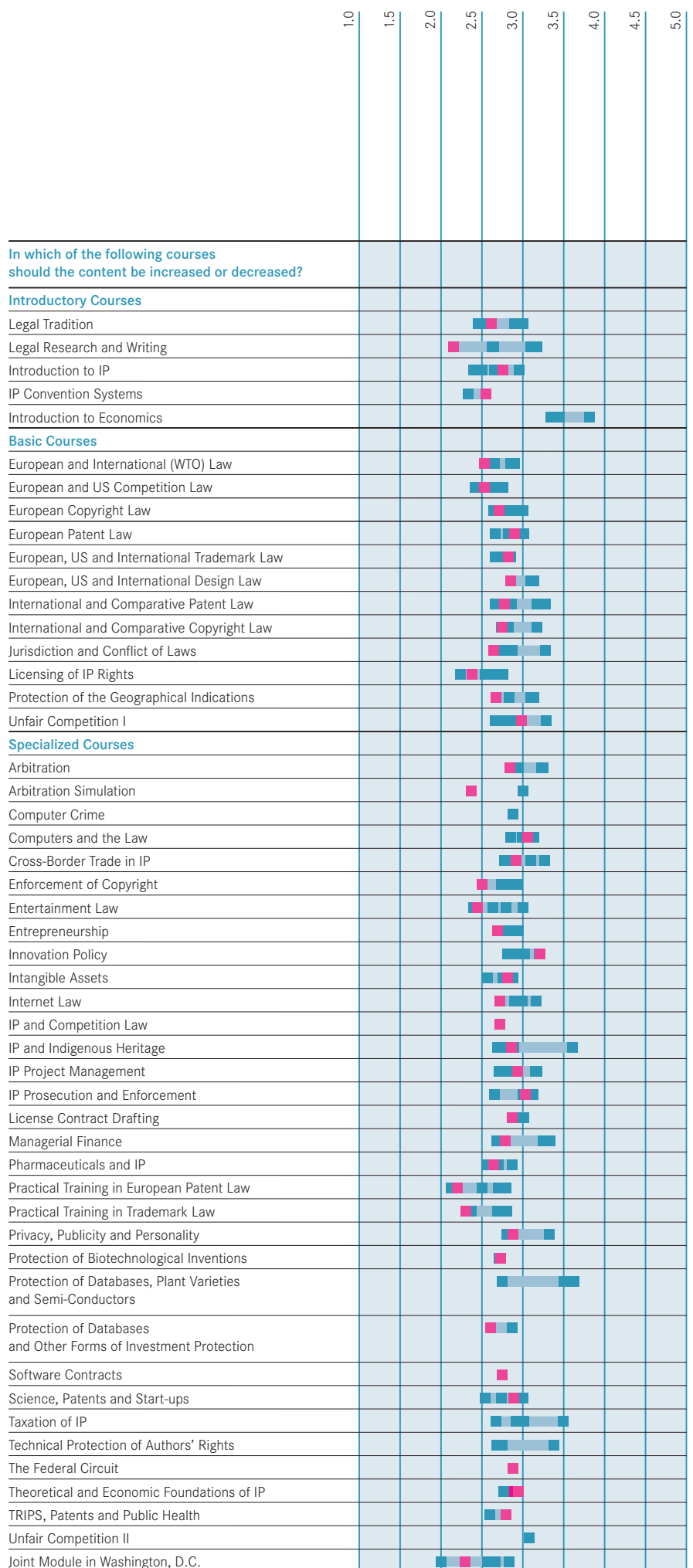
Figure 2:
Students' evaluation of the content of each course on a scale from 1 (increase strongly) to 5 (decrease strongly), with a value of 3 corresponding to "leave it as it is."
The dots represent the weighted averages of the classes 2004/05 through 2008/09.

IP and Competition Law and The Federal Circuit, scored highly satisfactorily at 2.74 and 2.88, respectively. These results confirm that both courses are a valuable addition to the MIPLC curriculum.

The support provided by professors, tutors, and the MIPLC team again received high ratings, ranging from 1.36 for the support provided by the MIPLC team to a still very good 1.96 for mentoring provided regarding the Master's thesis. It should be noted that this is still an improvement over the ratings of the previous year, and is achieved despite the fact that most Master's thesis supervisors reside outside of Munich and therefore provide their support predominantly by telephone or email when they are not in residence in Munich during their courses. The tutorials were rated 1.75 for educational support and 1.67 for individual support provided, demonstrating that the tutors take up an important position in their tutees' lives and provide support beyond the strictly academic.

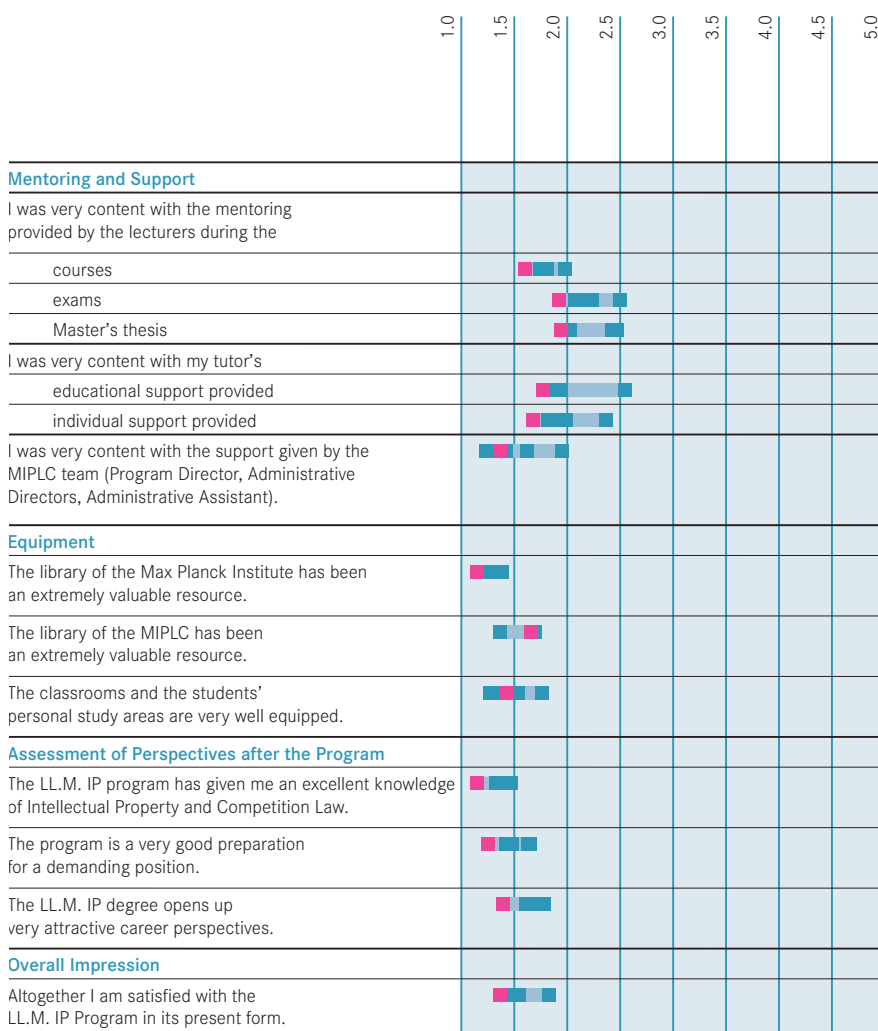
Confirming the experience of the past years, the MIPLC equipment was rated very highly, with the Max Planck Institute's library scoring extremely well at 1.14. As even the lowest rating (1.68 for the equipment of the MIPLC classroom) is still very good, this section of the evaluation confirms that the students appreciate the excellent facilities and working conditions at the MIPLC.

In a clear improvement over the previous year, students had extremely positive views of their post-MIPLC perspectives, rating 1.14 for excellent knowledge of IP and competition law gained; 1.25 for the preparation received for a demanding career; and 1.39 for attractive career perspectives.



4. The LL.M. Program Academic Year 2008/09

Figure 3:
Students' satisfaction with the support received during the program, the infrastructure, the career perspectives, and the program as a whole, on a scale from 1 (I completely agree) to 5 (I completely disagree). The dots represent the weighted averages of the classes 2004/05 through 2008/09.



4.14.3. Improvements for the Academic Year 2009/10

The introductory course Introduction to Economics will be revived, for which purpose the MIPLC is glad to have secured the expertise of Felix Reinshagen of the Munich Graduate School of Economics (LMU Munich). The specialized course Project Management will be replaced by Strategic Management and IP in New Firms, taught by Dr. Patzelt of the Technische Universität München, to provide an overview of strategic and managerial issues and their implications for intellectual property management in the context of new firms. To allow students a courtroom simulation, Professor Ann and Dr. Nack will offer a specialized course entitled Oral Advocacy. Last but not least, Dr. Große Ruse – Khan of the Max Planck Institute for Intellectual Property, Competition and Tax Law will offer a course about IP Within the Global Legal Order to help students examine and understand the increasingly relevant interplays between IP and other legal regimes in international law.

4.15. Professional Perspectives – Career Steps Taken by the 2008/09 Graduates

Helping to build opportunities for successful careers for graduates of the LL.M. program is one of the most important goals of the MIPLC. Enjoying a productive career in intellectual property is understandably also a key motivation of most students who enter the program!

Each year MIPLC alumni have found excellent jobs, providing great opportunities for utilizing their knowledge and skills, in law firms, corporate legal departments, IP institutions, and government-run facilities. As was the case for previous graduates, the 2008/09 graduates received various forms of placement support, ranging from letters of recommendation given by members of the Managing Board or the faculty to direct introductions at law firms and companies. The MIPLC approach is, wherever possible, to provide personalized assistance catering to each individual’s distinctive needs and strengths, rather than to follow a standardized formula for getting a job. The general result, it is hoped, is a good match between a graduate and an em-

ployer and, thereafter, a robust and productive long-term career prospect in IP. In addition to catering to students’ individualized needs, the MIPLC also provides more structured employment-search opportunities, such as participation in the EIPIN Job Fair. On May 16, 2009 the fifth EIPIN Job Fair was organized by the MIPLC and held in Munich, bringing together the students of the EIPIN partner institutions with representatives of potential employers.

The 2008/09 graduates were able to find desirable positions in the field of IP in all parts of the world. These included:

- Amereller Attorneys
- Arochi, Marroquín & Lindner S.C.
- Brain League IP Services
- Frommer, Lawrence & Haug LLP
- Januar Jahja & Partners
- Lideika, Petrauskas, Vali nas ir partneriai LAWIN
- Ministry of Health, Mexico
- Olivares & Cia.
- Popelensky Patent and Trademarks Attorneys
- Sim & McBurney/Sim Lowman Ashton & McKay LLP
- TecEsq IP Services
- Turkish Patent Institute
- Wuesthoff & Wuesthoff

An overview of the career steps taken by the students of the first six MIPLC classes immediately after graduation is provided in Fig. 4. Of a total of 135 graduates, a staggering majority of 71% start or continue their careers practicing in (patent) law firms, patent and trademark offices, government bodies, corporate or legal departments, as university researchers or lecturers, or as free-lancers. 18% stayed in the educational sector as Ph.D. students (14%) or pursuing other degrees (4%). A further 4% have taken maternity or other leave, and for 7%, no information



Prudence Jahja Indonesia

“MIPLC has provided me with a very interesting program with regard to the career that I pursue. From the internship during the spring break 2009 at a German law firm in Munich, to the 10-day Washington trip where we got a chance to visit the USPTO as well as the US Court of Appeals for the Federal Circuit, MIPLC has opened up tremendous opportunities for me to achieve my goal in becoming a competent IP lawyer. I am currently working at Januar Jahja & Partners in Jakarta and soon will be in New York for six months of training at Frommer, Lawrence & Haug LLP! I’m sure that I would have never been given a chance to all these opportunities without MIPLC.”

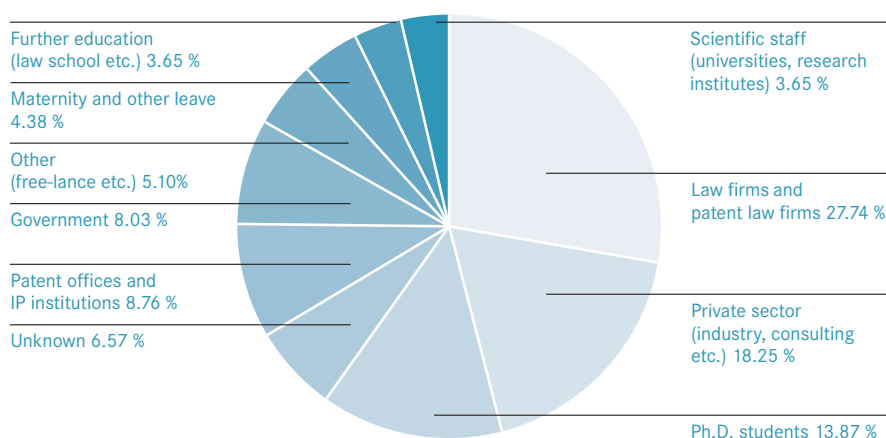


Figure 4: Initial career steps taken by MIPLC students after graduation (classes 2003/04 through 2008/09, totaling 135 graduates).

4. The LL.M. Program Academic Year 2008/09



Shuchi Agarwal India

“MIPLC was an incredible experience in all respects – course, city, mix of students from various nationalities, and some of the exceptional professors we had an opportunity to interact with. Not only did the course equip me with detailed knowledge on all forms of IP, it also threw light on practical issues in this domain. Exposure from occasional trips to PTOs or lectures by practising attorneys was equally enlightening. In fact, the program has helped me in accomplishing my intent of spreading IP awareness and education in India. After MIPLC, armed with in-depth IP knowledge, I have ventured into IP education by being associated with different colleges, and at the same time utilize the knowledge gained on different IP projects. I work with corporate bodies and help them manage the intangible assets of their organization. I sincerely convey my regards to MIPLC and its distinguished faculty in helping me get a step closer to my vision in life!”



Tomas Karzer Canada

“I’m sure that my success in the program has contributed to my success in finding a position as a Patent Agent in my home in Toronto, Canada. My employers were impressed with the list of my past professors and see my international experience as rounding out my knowledge base. I wish I could have stayed in Munich with all the friends I made, but I am grateful that I could go back to Canada and find a position in a very difficult economic environment.”

on the chosen career path is available. Present or past employers of previous MIPLC graduates include:

Government Institutions

- European Patent Office, Munich, Germany
- Icelandic Patent Office, Reykjavik, Iceland
- Ministry of Justice, Oslo, Norway
- Ministry of Justice, National Law Commission, Cairo, Egypt
- Ministry of Trade, Accra, Ghana
- Nordic Patent Institute, Copenhagen, Denmark
- Office for Harmonization of the Internal Market, Alicante, Spain
- Supreme Court of Japan, Tokyo, Japan
- Turkish Patent Office, Ankara, Turkey
- US Patent and Trademark Office, Washington D.C., USA
- WIPO Arbitration and Mediation Center, Geneva, Switzerland

Law Firms and Patent Law Firms

- Allen & Overy, A. Pedzich Sp.k., Warsaw, Poland
- Bird & Bird, Düsseldorf, Germany; Milan, Italy; Munich, Germany
- Cleary Gottlieb, Beijing, China
- Doerries, Frank-Molnia, and Pohlman, Munich, Germany
- Grau & Angulo Abogados, Barcelona, Spain
- FoxMandal Little, Bangalore, India
- v. Fünér Ebbinghaus Finck Hano, Munich, Germany
- Ibrachy and Dermarkar, Cairo, Egypt
- Jose Lloreda Camacho & Co, Bogotá, Colombia
- Kenyon & Kenyon, New York, USA
- LAWIN Law Firm, Vilnius, Lithuania
- Maiwald Patentanwalts GmbH, Munich, Germany
- Mehmet Gün & Co, Istanbul, Turkey
- Momsen Leonardos, Rio de Janeiro, Brazil
- Müller-Boré & Partner, Munich, Germany
- OlarteRaisbeck, Bogotá, Colombia
- Pepper Hamilton, Philadelphia, USA
- Soltysiński Kawecki & Szlęzak, Warsaw, Poland
- The Corporate Law Group, San Francisco, USA
- Vossius & Partner, Munich, Germany
- Wharton, Aldhizer & Weaver, Harrisonburg, VA, USA
- Wuesthoff & Wuesthoff, Munich, Germany
- Y.P. Lee, Mock & Partners, Seoul, Korea

Private Sector/Industry

- Alcan Inc., Montreal, Canada; Zurich, Switzerland
- Allianz SE, Munich, Germany
- BASF, Ludwigshafen, Germany
- Brain League Services, Bangalore, India
- Epigenomics AG, Berlin, Germany
- Fall Creek Farm & Nursery Inc., Eugene, OR, USA
- GEMA Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (Society for Musical Performing and Mechanical Reproduction Rights), Munich, Germany
- General Electric, Shanghai, China
- Gennova Biopharmaceuticals Ltd., Pune, India
- Grupo Modelo, Mexico City, Mexico
- Intel, Shanghai, China
- Mitsui & Co. Deutschland GmbH, Düsseldorf, Germany
- MorphoSys AG, Munich, Germany
- National Chemical Laboratory, Pune, India
- Primera AG, Aschheim, Germany
- Saudi Arabian Oil Company, Dhahran, Saudi Arabia
- Siemens, Beijing, China; Munich, Germany
- S.U.P. Societät für Unternehmensplanung GmbH, Frankfurt/Main, Germany
- TecEsq IP Services, New Delhi, India
- The Patent Board, USA
- The PQT Consultancy, Sachsenkam, Germany
- Treofan Germany GmbH & Co. KG

Universities and Research Institutions

- NALSAR University, India
- University of Addis Ababa, Ethiopia
- University of Alicante, Spain
- University of Århus, Denmark
- University of Augsburg, Germany
- University of Bayreuth, Germany
- University of Hannover, Germany
- University of Helsinki, Finland
- University of Karlsruhe, Germany
- University of Leuven, Belgium
- University of London, Queen Mary Intellectual Property Research Institute, UK
- University of Munich, Germany
- University of Neuchâtel, Switzerland
- University of Stockholm, Sweden



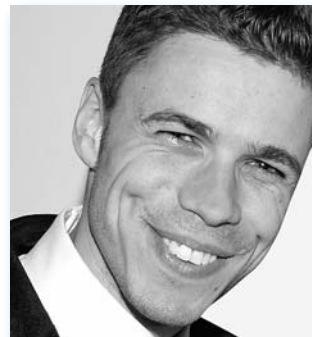
Nishanta Sampath Punchi Hewage Sri Lanka

“With regard to professional and personal development, MIPLC provides its students with the best global opportunities to acquire outstanding qualifications. It enriches students with the best knowledge in the discipline as all the courses have been tailored to present-day needs and equips students to practically find solutions for IP and competition law issues which will benefit them in their career. In this regard, I should say, the internship program organized by MIPLC during the spring break has been a great success. The internship program provides the platform to increase the interaction with industry. I too immensely benefited from it.”



Vinita Radhakrishnan India

“The backing, foundation and support provided by MIPLC have helped me a lot in shaping my professional life. To start with, I got an opportunity to work for one of the fast-growing life sciences company in India as soon as I completed my program. As an IP Manager at the company, I deal with various aspects in the IP life cycle ranging from IP excavation, protection, management, and strategy, and my courses at MIPLC gave me the foundation for handling all IP issues I face at work efficiently. I regularly refer to the comprehensive study materials provided during the program to clarify and understand various aspects of IP when in doubt. The recognition that the MIPLC carries gives me the respect and edge over others at various forums.”



Gediminas Ramanauskas Lithuania

“Choosing the LL.M. program at the MIPLC was a complete success. I had never had a chance to talk in person with professors whose books I had been reading at the library back in Vilnius, Lithuania. I was honored to be a part of MIPLC 2009 Class, to interact, assist, cooperate, spend long studying hours, pass the exams, write my Master’s thesis. For all of this, I got a huge reward. After the completion of the MIPLC program I became the Head of the IP Subgroup within the LAWIN law firm (the leading law firm in Lithuania, Latvia and Estonia) where I had worked for the past five years. Now I have knowledge, personal contacts, so many friends around the globe and new challenges at my law firm. If you ask my advice – definitely opt for the LL.M. in Munich.”

4. The LL.M. Program Academic Year 2008/09



Eliamani Laltaika, Class of 2007, President of the MIPLC Alumni Association

4.16. The MIPLC Alumni Association

In addition to customary get-togethers of Alumni Members, the year 2008/2009 saw significant progress in the institutional growth of the MIPLC Alumni Association. Among such steps are notarization of constitutional changes that had taken place since 2007 and development of the Association's core values. It is a pleasure to report on the latter.

The core values, represented by the acronym MIPLC, are meant to guide the Alumni Association's day-to-day activities. These values are as follows:

M as in Meet – in spite of increasing possibilities for people to accomplish many things without meeting physically, the MIPLC Alumni Association believes in the value of true networking through such gatherings as the graduation and annual reunions. Efforts will be made to ensure that such gatherings continue and bring together as many Alumni and

members to publish and notify the administration for record keeping.

L as in Learn – the Association shall endeavour to ensure that its members keep abreast with new developments in intellectual property law through organizing conferences, symposia and seminars and sharing information concerning workshops organized by other institutions.

C as in Contribute – the Association encourages the spirit of giving. We believe that our members will find themselves in attractive employment (many already are!). In the long run members may be asked to kindly contribute to enrich the MIPLC budget or directly sponsor exceptionally talented students from least developed countries to study at MIPLC.

We invite you to “MIPLC” with us! Further information about the MIPLC Alumni Association is available at www.miplc.de/alumni.



Students and alumni mix and mingle at the annual Alumni Association Gala Dinner



friends as possible.

I as in Interaction – interaction among alumni shall be encouraged not only during graduations and reunions but also through electronic media such as Facebook, blogs and other social networks.

P as in Publish – universities worldwide are increasingly rated according to the number of publications accessible online that they produce. The MIPLC Alumni Association shall encourage its



On the Welcome Day, students of the Class of 2008/09 were also introduced to the MIPLC Alumni Association

Judge Hiromitsu Magira and Eiji Fujimoto in conversation with Program Director Prinz zu Wald-eck



5. Research

5.1. Individual Projects

Whether UPOV 1978 is TRIPs Compliant and Whether the Indian Protection of Plant Varieties and Farmers Rights Act, 2001 is an “Effective” Sui Generis System as Per the Requirements of Article 27.3(b) of the TRIPs Agreement

Mrinalini Kochupillai (India)

The project discusses “effectiveness” of UPOV 1978 and the Indian Protection of Plant Varieties and Farmers Rights Act (2001) in the light of the mandates of the TRIPs Agreement and with a view to determine whether it can promote agricultural innovations keeping in mind the goal of equitable socio-economic growth and free and fair international trade.

Despite protracted international efforts, limited, if any, consensus has been reached regarding the necessary “minimum standard” for the protection of plant varieties under Article 27.3(b) of the TRIPs Agreement. Although it is almost single-handedly responsible for accelerating international recognition of intellectual property rights in plant varieties, the lack of clear guidance within TRIPs regarding the scope of protection expected has led to the adoption of divergent standards for the protection of plant varieties by WTO members. The current situation can be attributed, at least in part, to the existence of two key versions of the only international system that incorporates significant substantive provisions constituting a sui generis system for the protection of plant varieties; namely the plant breeders rights system as regulated under UPOV 1978 and UPOV 1991.

The research first aims to explore whether UPOV 1978 constitutes an effective sui generis system for the protection of plant varieties as per the requirements of Article 27.3(b) of the TRIPs Agreement. A study of the TRIPs compatibility of UPOV 1978 is significant because of the sheer number of member states (especially developing country members) that have, following the adoption of TRIPs, either become party to UPOV 1978 or have

enacted laws incorporating its principles and provisions.

The research then studies the Indian PPV&FR Act (2001), which not only contains several provisions from UPOV 1978 (as well as UPOV 1991), but also introduces a system of farmers’ rights and emphasizes the rights and welfare of farmers in addition to those of breeders as envisaged by the UPOV agreements. The questions addressed are: (a) whether the PPV&FR Act constitutes an “effective” sui generis system within the meaning of Article 27.3(b) of the TRIPs Agreement and (b) whether it promotes agricultural innovation necessary to support the socio-economic growth of India.

The research will be completed by mid-November 2009, with publication to follow after revisions have been made.

Ms. Kochupillai will commence Ph.D. studies at the International Max Planck Research School for Competition and Innovation (IMPRS-CI) as of the academic year 2009/10.

Other Individual Projects

Strategies for Solving the Problems of Backlog and Unreliable Examination Quality in the Global Patent System

Professor Kelvin Willoughby
USA (MIPLC graduate of 2007/08)

Current Topics in Japanese and European Patent Law (Patentability and Infringement)

Atsuhiko Furuta
Japan



Iana Roueva

5.2. Ph.D. Students

In 2008/09, three students submitted their completed Ph.D. theses. Several other theses are now nearing completion. One new student started work on his thesis in October 2008.

The Community Trademark and the Unification of the Legislation of the Balkan States in the End and in the Beginning of the European Accession Process

Iana Krassimirova Roueva
Bulgaria (MIPLC graduate of 2004/05)



Diana Leguizamón Morales

Modern Plant Breeding and Legal Protection of New Plant Varieties in Latin American Countries

Diana Leguizamón Morales
Colombia (MIPLC graduate of 2005/06)



Viviane Mitsuuchi Kunisawa

The World Trade Organization and the Implementation of the Patent Provisions of the TRIPS Agreement in Brazil

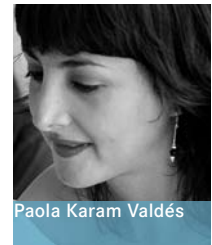
Viviane Mitsuuchi Kunisawa
Brazil (MIPLC graduate of 2005/06)

Standardization Efforts and Collective Licensing Mechanisms in the Genetic Testing Field

Paola Karam Valdés
Mexico (MIPLC graduate of 2005/06)

Dispute Between Intellectual Property Rights and Standards by Analyzing Licence Contracts Under FRAND Conditions and Patent Pools

Claudia Tapia Garcia
Spain



Paola Karam Valdés

Antitrust Law as a Preventive Measure Against Misuse of Intellectual Property Rights – A Comparative Analysis of Chinese and European Law

Wu Yixing
China



Wu Yixing

Towards Proper Competition Law and Policy in Sub-Saharan African Countries: The Case Studies of South Africa, Zambia, Ethiopia, and Nigeria

Zecharias Fassil Berhe
Ethiopia (MIPLC graduate of 2007/08)



Claudia Tapia Garcia



Zecharias Fassil Berhe

5. Research

5.3. The MIPLC Lecture Series

In 2008/09, the MIPLC continued its successful lecture series in which international IP experts give talks. During the period covered by this report, the following lectures were given:

[Innovation Policy and Friends of the Court: Patent Right Advocacy before the U.S. Supreme Court](#)

Professor James G. Conley

(Northwestern University Engineering School and Kellogg School of Management) and

Professor David Orozco

(Michigan Technology's School of Business and Economics) May 19, 2009

Is Information?

Professor Robert A. Heverly

(Michigan State University College of Law) May 28, 2009

5.4. The MIPLC Book Series

The MIPLC Book Series, published by Nomos Verlagsgesellschaft, continues to publish outstanding Ph.D. and Master's theses:

Volume 4:

[Fact-Gathering in Patent Infringement Cases: Rule 34 Discovery and the Saisie-Contrefaçon](#)

Esther Seitz

(MIPLC graduate of 2007/08)

Volume 5:

[Patentability Requirements for Nanotechnological Inventions: An Approach from the European Patent Convention Perspective](#)

Mario Cisneros

(MIPLC graduate of 2007/08)

Of the class of 2008/09, two Master's theses were chosen for publication:

[Copyright, the Freedom of Expression and the Right to Information: Exploring a Potential Public Interest Exception to Copyright in Europe](#)

Sunimal Mendis

[Enforcement of FRAND Commitments under Article 82 of the EC Treaty: The Nature of FRAND Defence in Patent Litigation](#)

Tuire Väisänen

The next Ph.D. theses published in the series will be:

[Patenting Proteomics: Patentability and Scope of Protection of Three-Dimensional Protein Structure Claims under German, European and US Law](#)

Martina Schuster

(Ph.D. student at the Max Planck Institute, supervised by Professor Straus)

[Implementation of the EU Enforcement Directive in the Baltic Countries: Experience in View of the Development of Protection of Intellectual Property Rights](#)

Kristina Janušauskaitė

(MIPLC graduate of 2004/05)

5.5 Special Publication

[Patents and Technological Progress in a Globalized World](#)

[Liber Amicorum Joseph Straus](#)

Editors: Wolrad Prinz zu Waldeck und Pyrmont, Martin J. Adelman, Robert Brauneis, Josef Drexler, Ralph Nack



Vinita Radhakrishnan India

“The extensive literature available in the library and the other research facilities provided helped me tremendously in my research at MIPLC. Furthermore, the proximity to and association of MIPLC with the Max Planck Institute made the best researchers in the field accessible to me. Furthermore, for a student like me who comes from a foreign country with rudimentary knowledge of German, the administration and support staff played a very important role in making my stay here as comfortable as possible. They made me feel an integral part of MIPLC.”

6. MIPLC Advisory Boards

As stipulated by the founding Cooperation Agreement between the partners, the MIPLC has three Advisory Boards.

The **Scientific Advisory Board** advises the Managing Board on the MIPLC's research program as well as on financial issues.

For the MIPLC Research Unit, the Regulations of the Max Planck Society require two additional boards: another Scientific Advisory Board ("**Fachbeirat**" in German; to avoid confusion this term will be used) to evaluate the research carried out at MIPLC, and a **Board of Trustees** to promote the relationship between the Center and the general public interested in education and research in IP and adjacent areas.

The Scientific Advisory Board meets on an annual basis. The other two Boards alternate in their two-year cycles. In 2009, it was the Fachbeirat's turn.

6.1. Meeting of the Scientific Advisory Board

The Scientific Advisory Board met on November 5, 2009, from 10 a.m. to 5 p.m.

As the new Chairman of the MIPLC Managing Board, Professor Drexl welcomed all participants. He then introduced Professor Welpe, the new Board member and representative of the Technische Universität München, as well as Dr. Lee and Mr. Ericsson, who joined the MIPLC as Program Directors on September 1, 2009, and January 1, 2009, respectively.

Professor Brauneis and Mr. Ericsson presented an overview of the academic year 2008/09 and the developments of the LL.M. program. Moreover, Mr. Ericsson provided a detailed explanation of the accreditation process, the requirements the accreditation body had made on MIPLC, and the resulting new curriculum. Afterwards, Mr. Ericsson presented the MIPLC's financial developments on be-



Members of the Scientific Advisory Board in conversation with former and current students



half of Ms. Hinkel, who was unable to attend the meeting.

The subsequent discussion revolved around future financial planning, the cooperation with the EPO's IPR2 program, the recruitment of more international faculty members, the organization and financing of hosting an EIPIN conference in Munich, and the development of LL.M. program applications.

The afternoon session was dominated by four presentations, each of which caused spirited discussions. Dr. Lee presented her research project on "Interfacing Patent Law with Open Innovation –

IP in Open Business Models.” Ms. Tuire Väisänen, graduate of 2008/09, presented her Master’s Thesis on “FRAND from the Legal Perspective.” Ms. Diana Leguizamón, LL.M. graduate of 2005/06, presented her Ph.D. research on “Legal Protection of Plant Varieties and Plant Related Inventions in Colombia.” Finally, Ms. Rachel Alemu, LL.M. graduate of 2008/09, presented her Master’s Thesis on “Intellectual Property Rights for Plant Varieties and the Implications for Food Security in Uganda.”

In the evening, the members of the Scientific Advisory Board had dinner with the members of the Fachbeirat, which met the next day.

6.2. Meeting of the Fachbeirat

The MIPLC Fachbeirat met on November 6, 2009, from 9:00 a.m. to 3:30 p.m., presided over by Vice Chair Professor Kitch. The Fachbeirat subsequently elected Professor Gielen as its new Chair, succeeding Professor Reichwald who had retired at the end of 2008.

Following presentations providing a summary of the academic year 2008/09 and the developments of the LL.M. program, as well as the MIPLC’s financial development in that period, the Fachbeirat turned to evaluating the research activities undertaken at MIPLC.

Initially, Professor Straus presented a review concerning his MIPLC research in general and his Ph.D. students in particular, in which he encouraged to have more long-term cooperative projects besides

variety of topics and a wide geographical distribution. The research activities will be further augmented by conferences, especially the EIPIN congresses (including corresponding publications), as well as by collaborative projects among the MIPLC partners. Several such collaborative projects are in the phase of preparation.

Moreover, MIPLC researchers Dr. Nari Lee, Mrinalini Kochupillai (former MIPLC research scholar, now Ph.D. student at IMPRS-CI), Dr. Daniela Mederle (former Ph.D. student at the University of Augsburg), and Nicole van der Laan (MIPLC LL.M. graduate 2008/09) presented summaries of their current or recently completed projects.

The meeting concluded with the internal deliberation of the Fachbeirat, followed by a final discussion with the MIPLC Managing Board.



Ph.D. theses and to organize more international conferences. Professor Drexl subsequently discussed his ideas of the MIPLC research unit, which, with Mr. Ericsson and Dr. Lee, will be marked by quality and strength of academia, and by the diversity of topics, now covering patents as well as copyright.

Ph.D. students and conferences are envisaged as central components of the research area. The general policy with regard to Ph.D. theses will be to particularly support highly qualified LL.M. graduates from developing countries in achieving an academic career, ensuring a high



Dr. Mederle presenting her MIPLC-financed research



Professor Gielen and Professor Ann during the Fachbeirat meeting

Appendix 1: Curriculum

Introductory Courses

Legal Tradition (Civil Law & Common Law)
(Cornish, Crews) (1 CH, 0 cp)

Legal Research and Writing
(Crews) (1 CH, 0 cp)

Introduction to IP
(Crews) (0.5 CH, 0 cp)

**International IP
Convention Systems**
(Kur) (0.25 CH, 0 cp)

Basic Courses

European and International (WTO) Law
(Möllers) (1 CH, 1.5 cp)

European and US Competition Law
(Kort) (1 CH, 1.5 cp)

European Copyright Law
(Hugenholtz, von Lewinski)
(2 CH, 3 cp)

European Patent Law
(Straus, Moufang, Prinz zu Waldeck)
(2 CH, 3 cp)

**European, US and
International Design Law**
(Kur, Janis) (1 CH, 1.5 cp)

**European, US and
International Trademark Law**
(Brauneis, Kur, von Bomhard)
(2 CH, 3 cp)

**International and
Comparative Copyright Law**
(Goldstein, Ganea) (2 CH, 3 cp)

**International and
Comparative Patent Law**
(Adelman, Rader, Katayama) (2 CH, 3 cp)

Jurisdiction and Conflict of Laws
(Dinwoodie) (1 CH, 1.5 cp)

Licensing of IP Rights
(Ann, Hilty, Goddar)
(1 CH, 1.5 cp)

Protection of Geographical Indications
(Loschelder) (1 CH, 1.5 cp)

Unfair Competition I
(Ohly) (1 CH, 1.5 cp)



Specialized Courses

Arbitration

(Barceló, Wilbers) (1 CH, 1.5 cp)

Arbitration Simulation

(Karamanian) (0.5 CH, 0.75 cp)

Computers and the Law

(Lehmann, Nack) (2 CH, 3 cp)

Cross-Border Trade in IP

(Brauneis) (1 CH, 1.5 cp)

Enforcement of Copyright

(Schlesinger, Strowel) (1 CH, 1.5 cp)

Entertainment Law

(Dougherty, Loewenheim) (1 CH, 1.5 cp)

Entrepreneurship

(Bassen, Poech) (1 CH, 1.5 cp)

Innovation Policy

(von Graevenitz) (1 CH, 1.5 cp)

Intangible Assets Valuation

(Harhoff) (1 CH, 1.5 cp)

Internet Law

(Carroll) (1 CH, 1.5 cp)

IP and Competition Law

(Drexler) (2 CH, 3 cp)

IP and Indigenous Heritage

(von Lewinski) (1 CH, 1.5 cp)

IP Project Management

(Kolisch) (1 CH, 1.5 cp)

IP Prosecution and Enforcement

(Kieff, Kroher, Pagenberg) (2 CH, 3 cp)

License Contract Drafting

(Soltysiński) (1 CH, 1.5 cp)

Managerial Finance

(Kaserer) (1 CH, 1.5 cp)

Pharmaceuticals and IP

(Kieff, Gassner, Hammann) (1 CH, 1.5 cp)

Practical Training in European Patent Law

(Geissler, von Meibom) (1 CH, 1.5 cp)

Practical Training in Trademark Law

(von Bomhard, Hines) (1 CH, 1.5 cp)

Privacy, Publicity and Personality

(Ohly) (1 CH, 1.5 cp)

Protection of Biotechnological Inventions

(Kieff, Straus) (1 CH, 1.5 cp)

Protection of Databases and Other Forms of Investment Protection

(Leistner) (0.5 CH, 0.75 cp)

Science, Patents and Start-ups

(Hertel) (1 CH, 1.5 cp)

The Federal Circuit

(Whealan) (1 CH, 1.5 cp)

Theoretical and Economic Foundations of IP

(Duffy) (1 CH, 1.5 cp)

TRIPS, Patents and Public Health

(Rajec) (1 CH, 1.5 cp)

Unfair Competition II

(Möllers) (1 CH, 1.5 cp)



CH: Credit Hour
(700 minutes of teaching)
cp: credit points

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