IP superstars

The achievements of IP Hall of Fame inductees set them apart from the crowd. Those who have made it into this elite group this year are no exception

By **Sara-Jayne Clover**

This February the IP Hall of Fame inductees for 2010 were announced. They are Thomas Blanco White, Donald Dunner, Paul Michel, Jochen Pagenberg and Ruud Peters. Each has made a tremendous contribution to the global intellectual property system and to the development of IP as a crucial business asset.

The five were chosen by the members of the 40-strong IP Hall of Fame Academy following a selection process that began in October 2009. The Academy comprises previous, living inductees into the IP Hall of Fame, the panellists from the inaugural IP Hall of Fame induction process and individuals who have been put forward for membership as a consequence of their acknowledged expertise in international intellectual property issues.

In October, members of the global IP community were invited to nominate individuals who they felt had "made an outstanding contribution to the development of intellectual property law and practice" and to supply supporting paragraphs giving their reasons. All nominations were sent to Academy members, each of whom had up to five votes.

The IP Hall of Fame seeks to identify individuals who have helped to establish intellectual property as one of the key business assets of the 21st century. The aim is not only to acknowledge the vital role played by these innovators in fostering today's vibrant IP environment and ensuring its continued health, but also to show how central IP is to the global economy and to the wellbeing of people across the world. Furthermore, it is a way for the global IP community to thank those who have helped create a thriving industry.

Previous inductees to the IP Hall of Fame include former US presidents Thomas Jefferson and James Madison, the great French author Victor Hugo and inventor Thomas Edison, as well as more current names such as Marshall Phelps, formerly head of IP at both IBM and Microsoft; Dolores Hanna, the female president of the International Trademark Association; and British judge Lord Justice Robin Jacob.

Over the following pages we feature interviews with and profiles of this year's IP Hall of Fame inductees. On 21st June 2010, they will be honoured at a gala dinner in Munich. In the autumn, the process to find 2011's inductees will begin. The support that the IP Hall of Fame receives from IP professionals across the world has been hugely gratifying. Long may it continue. *iam*

You can find the names of all previous inductees into the IP Hall of Fame, as well as photos and profiles, at the IP Hall of Fame website. There is also a list of the current members of the IP Hall of Fame Academy.
www.iphalloffame.com

Thomas Blanco White QC (1915-2006) – an appreciation

Thomas Blanco White, regarded by many as one of the great IP scholars of all time, died in 2006. Lord Justice Robin Jacob, who sits in the Royal Courts of Justice in London and was one of the first inductees into the IP Hall of Fame, remembers the man and his achievements

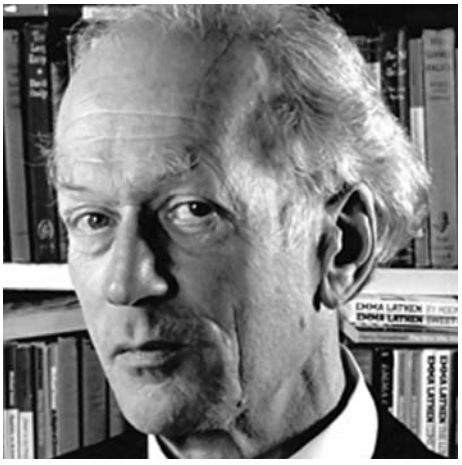
I am pleased to be asked to write about Thomas Blanco White QC on his deserved posthumous election to the IP Hall of Fame. His name is known and revered throughout that part of the common law world which took its basic intellectual property laws from the UK. They include particularly India, Australia, New Zealand and Canada. To this day, the last Green edition of his book on patents is highly prized and much consulted in Australia, more so than in Blanco's home country of England, where IP law has moved on by way of Europeanisation. Even now I consult (and sometimes refer to in judgments) what he had to say. For – unsurprisingly, if you think about it, though not all do (the young are apt to think they are the first to discover IP) – none of the big questions of patent law is really new. Claim construction, whether or not there is a doctrine of equivalents and if so what it is, obviousness, novelty, undue width of claim, sufficiency of description and what sort of thing is unpatentable in principle all go back into the beginnings of the patent system. Blanco (as he was always called in the profession) thought, and wrote with enormous perception, about all these things.

First a word about Blanco's background. He was born into a staunchly left-wing (Fabian) family. His mother, Amber Reeves, was the daughter of Pember Reeves, a New Zealander who had returned to the UK and was one of the founders of the London School of Economics. She was one of the first women to go to university. Blanco was immensely proud of his mother. Just as you entered his room, there was a framed letter dated 1915 from the president of the Board of Trade. It appointed a committee "of the following gentlemen" to inquire into the cause of price rises during the Great War. One of the "gentlemen" appointed was Mrs Amber Blanco White! His mother's influence (and it would have been reinforced by his wife Anne) meant that he never regarded women as inferior. If anything, the opposite! When the question of taking on a woman barrister arose in chambers, Blanco's conversation with the senior clerk went like this: "Sydney, we're thinking of taking on Miss Vitoria." "Well no, sir, I don't think that would do." "Why not?" "Well, I don't think she would get any work." "Well," said Blanco, "never mind". Two years later the clerks said: "We don't know how we would do without her."

Blanco was a formidable engineer in all fields, but especially electronics. During the war he served in the Royal Air Force as a radar engineer in India (for which country he developed a lifelong love). He spoke (or rather read) many languages. I remember one consultation in which the patent agent had got only one page translated of a piece of prior art in Russian. Blanco asked for the full article and astonished everyone by translating the key passage.

His room in chambers was an amazing place. Ever so untidy, no curtains, gadgets everywhere. He presided at the chambers tea party every day, sitting at his desk playing with red tape which he kept in a great tangle in one of the drawers. He normally wore a leather jacket and Doc Martens boots (the latter years before they became a youth fashion. Blanco wore them because they were more comfortable than ordinary business shoes). The tea party was perhaps the most erudite IP school in the world. Blanco ensured that all members of chambers took part. The place was 95% gossip and war stories, and 5% very serious argument about key questions of IP law.

And yet he was not a great advocate, often failing to recognise that the judges were not as clever as he was. And failing to have the common touch needed by a good cross-examiner. When I was his junior (which was quite often), I used to regard it as my job to understand what he was saying and



interpret it for the clients. Perhaps because he was not strong on bedside manner, he was never offered appointment to the bench – lesser but more user-friendly intellects got that. Perhaps another reason was that he was seen as too radical – and radical he certainly was, especially before the war when so many on the Left saw just what the rise of Nazism meant. Blanco had witnessed the danger at first hand having actually gone to a Hitler Nuremberg rally.

I believe he was the greatest intellectual property lawyer of his generation. No one I have heard of from any jurisdiction saw so deeply and so far. Not merely in patents, but in all aspects of IP. And he wrote so elegantly that his work was (and is) always a pleasure to read. Apart from his own title *Patents and Designs*, he was editor of *Kerly on Trade Marks* for many years and wrote some key texts on copyright. I was so, so lucky to be in his chambers. ■

Lord Justice Robin Jacob, Royal Courts of Justice, London

> "I believe he was the greatest intellectual property lawyer of his generation. No one I have heard of from any jurisdiction saw so deeply and so far"

Donald Dunner – a pioneer at the CAFC

"You don't work for recognition from your peers," says Donald Dunner as he discusses his induction into the IP Hall of Fame. "But it's a sign that you have done something right and that's very gratifying." And Dunner has done an awful lot right since he began his career in the 1950s.

A leading IP lawyer and partner at US law firm Finnegan, Dunner studied chemical engineering at Purdue University before realising that his future lay elsewhere. "Since I didn't want to waste my engineering education and had developed a flair for public speaking as student body president at Purdue," he explains, "I decided that the perfect alternative to an engineering career was one in patent law, where I could take advantage of both." Dunner's patent law career was, however, delayed by two years in the US Army. While serving, Dunner applied both to Georgetown Law School in Washington, DC and to be a patent examiner. In 1955 Dunner moved to the US capital and began working as a examiner during the day and attending law school at night.

After a year at the Patent Office, a position opened up at what was then the Court of Customs and Patent Appeals – one of the two courts that would years later merge to become the Court of Appeals for the Federal Circuit (CAFC). "I was a freshman at law school when I was appointed law clerk to the chief judge of the Court of Customs and Patent Appeals," recalls Dunner. The subsequent two years were spent clerking during the day while continuing his studies during the evening. "The education I got during the day was at least as, if not more, significant than the education I was getting at night. I was literally at the cutting edge of patent law at that point."

Upon graduating from law school in 1958, Dunner entered private practice. "In the beginning of my career, patent lawyers were regarded as a strange breed of animal and a lot of people thought we were nerds," he laughs. "There weren't a lot of women in patent law, since most patent lawyers have a technical background and very few women at that time had this." In contrast to today, specialised patent firms were essentially the only ones that handled patent cases. This, explains Dunner, was to change in the early 1980s. "During the Reagan administration, practice areas such as antitrust and energy law dried up enormously and so general law firms looked for new pursuits," he states. "Since the newly formed CAFC was beginning at that time to bring patent law into the mainstream, it is not surprising that these general law firms expanded their practices into the patent law field." In the process, Dunner continues, these firms absorbed or consolidated with patent boutiques, the end result of which is that today, patent law is a highly regarded segment of the larger body of law practised by both patent specialists and generalists.

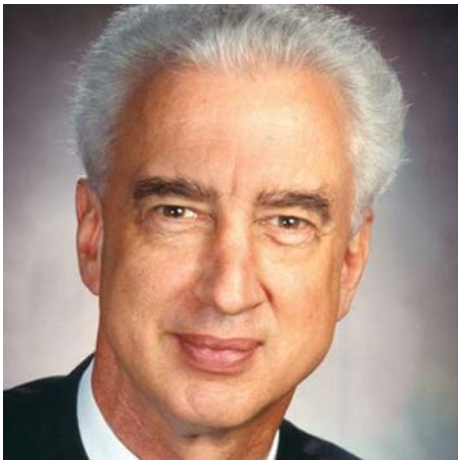
Creating the CAFC, Dunner explains, took time. "Discussions about a specialised patent court actually started at least 100 years ago in the course of efforts to form a special court of patent appeals," he states. "There was, however, tremendous hostility to that idea because of a basic dislike of specialised courts in general and a concern that judges would become parochial in their approach to the law and develop unpalatable biases in one direction or the other. As a result, the idea languished for many, many years."

In the late 1970s, however, Dunner participated in a presidential commission (the Commission on Industrial Innovation), which was formed to explore the reasons for and potential solutions to the perceived decline in industrial innovation in the United States. "At about the same time, an ingenious proposal was made by a University of Virginia professor, Daniel Meador, who had been appointed to a high position in the US Justice Department," states Dunner. Given the hostility to specialised courts, his idea was to merge the Court of Claims and the Court of Customs and Patent Appeals into a single court and to give the new court jurisdiction over a wide variety of subjects, only one of which was patents. "The genius of the idea was not only that the court was not a specialised patent court," explains Dunner, "but that its formation would involve minimal cost to the government, since the two merging courts occupied the same courthouse and no new judges would be required."

Meador's idea was quickly endorsed by the Commission on Industrial Innovation. Dunner used his influence as president of

the American Patent Law Association (now known as the AIPLA) to urge the association to support the new court, which Congress approved. The new court opened its doors for business in October 1982. The chief judge of the newly established CAFC was Howard T Markey, someone Dunner had come to know well when he was chief judge of the Court of Customs and Patent Appeals (Markey was inducted into the IP Hall of Fame in 2006). The statute forming the CAFC had a provision in it calling for an Advisory Committee. Dunner became chair of that committee and remained so for 10 years, helping the court draft its first set of rules and acting as a sounding board for input into the court from members of the Bar.

During his career as a patent practitioner, Dunner has argued more times before the CAFC than any other lawyer. "Appellate work is very challenging and intellectually stimulating," he says. "Most of the appeals I handle are for parties that have lost below. It's challenging to take a case that has been lost and repackage it in such a way as to convert it to a winning case." Practising at the cutting edge of patent law provides the excitement needed to inspire after more than half a century in the field. "It's exhilarating to stand before three judges and try to convince them that the district court was wrong, or sometimes that they were right," states Dunner. "Appellate practice is far less stressful than litigation, but equally challenging and professionally very rewarding." ■



Paul Michel – America's chief patent judge

Paul Michel started out in law as a public prosecutor in Philadelphia before heading to Washington, DC to head up a part of the investigation into the Watergate affair. After a number of years working in Congress and for the US government, he was appointed as a judge of the Court of Appeals for the Federal Circuit (CAFC) in 1988 and became its chief judge in 2004. On the eve of his retirement from the court, Michel reflects on his career so far and explains why he is embarking on a new career as an advocate for strong IP rights around the world

You are one of five inductees into the IP Hall of Fame this year. How does it feel to be recognised by your peers this way?
It feels quite wonderful and I'm a little bit surprised by just how much pleasure I experience when I remember that this induction is to take place. Like most people, I have my head down doing my job and I do it because it's interesting and worthwhile, and not so much in the hope of recognition or awards.

What inspired you to embark on a career in law and how did you start out?
I had two inspirations to become a lawyer. The first was reading, as a very young boy, a biography of Thomas Jefferson. That gave me the idea that you could be a lawyer on behalf of the whole of society and for the public rather than an individual client. I also had an uncle who worked in patent and antitrust law in New York who inspired me.

After law school I went to work as a public prosecutor in Philadelphia in order to learn trial and litigation skills. After that, I continued in criminal investigations, particularly involving complicated public corruption and fraud matters. I came to Washington in 1974 to run one of the Watergate investigations. When that concluded, I went to work at the US Senate as assistant counsel on the Intelligence Committee. I then spent some years in the Justice Department before returning to Capitol Hill in 1981 to work for Senator Arlen Specter, for whom I had worked for the first seven years of my career while he was the chief public prosecutor in Philadelphia. Finally, in 1988 I was appointed from the Senate staff to the CAFC.

It was only upon joining the CAFC that you became involved in patent law. How does working on patent cases compare with other areas of law and was it in any way a culture shock?
Other than many discussions with my uncle, my first real exposure to patent law was when I was appointed to the court. Most of the judges on the CAFC are not patent judges and I am in that group that did not have patent law experience prior to appointment. However, the patent judges and the lawyers are great teachers, and I have found patent cases in particular very interesting. The lack of prior experience in patent law or serious training in science, technology or engineering has not proven to be a significant problem. I didn't take very long to become well steeped in the subject, as each of our judges decides well over 100 patent cases every year.

What would you say is the benefit of the CAFC for patent owners?
I think that as a result of the court's work over the last quarter-century, US patent law is more consistent and clear – which makes it more efficient. This enables business and science leaders to make decisions, because they can predict to a fairly great degree what the outcome would be if something were litigated in court.

What do you regard as the greatest achievement of your career so far?
It's actually an undramatic thing – it's the day-in, day-out work to strengthen the institution of this court. As the chief judge for the last five and a half years I've worked every day to improve the quality and speed and clarity of the work of the judges. For example, we have vastly improved computer systems in our courthouse and now provide an additional fourth law clerk for every full-time judge. We've had the benefit of having trial judges sit with us every month for three or four years now and have been able to exchange views and experiences with them, which has helped them do better jobs in their regular courts, and helped us understand what it's like to try these cases at the district court level. In many little ways I've worked to strengthen the court and I think it adds up to a considerable amount of added strength. I consider my contribution to be the sum of a number of smaller things that have happened along the way.

One of your actions after taking the role of chief judge was to introduce a mediation programme to the court. Many overlook mediation as a viable route to resolve IP disputes. How was your initiative received and how effective has it been?
The programme's success is not in doubt anymore. In 2009 we settled nearly 50 cases, over 30 of which were patent cases. That gives us the capacity as if we had one or two extra full-time judges. As a result, we can decide the other cases that don't settle in a more careful and speedy fashion. When the programme was first introduced, many colleagues were sceptical about its value and appropriateness, but in practice it has proved to be highly successful. We started in a very cautious way with a totally voluntary programme, and then later we strengthened the programme and made it mandatory. I think there's great potential for trial courts to do more with mediation. It would of course save huge amounts of money and provide faster results, which is very important today. Courts are often far too slow and mediation is the perfect shortcut.

Has the economic downturn made parties more open to mediation as an alternative to costly litigation?
It should have, but I haven't seen much change in behaviour yet. I agree that, unfortunately, mediation doesn't seem to be very popular in patent cases. I think it will change, but how fast change will come is hard to say. Often a mediated resolution can be better for both companies involved than if a judge were to rule on the case. I think part of the reluctance to use mediation comes from there not being many skilled mediators with a background in patents.

The CAFC has had several of its decisions overturned by the Supreme Court of late. Why do you believe this is and do you see it as a rebuke?
On the contrary – the federal circuit's exposition of patent law has largely been approved in decisions by the Supreme Court

over last five years. In a significant number of cases the court vacated the decision and sent it back to us to review it again in light of some clarification from the Supreme Court on legal standards. I think the Supreme Court acts to clarify the law and that's helpful.

It is well known that you are retiring from the court at the end of May this year. You've been reported as saying that you're "excited about the prospect of being unmuzzled". What do you mean by this?

The code of conduct that binds federal judges is quite strict in precluding us from speaking out on public, political or controversial issues, even if they're in the field of law. We are more or less restricted to talking only about the impact that a change in law would have on the courts. As such, I have not been free to speak out on the many controversial provisions in the patent reform legislation that is now actively moving in the US Congress. Once I retire, I'm no longer bound by that code or by the tradition of silence. I'll be able to speak out and I plan to do so in a vigorous way – I am going to try to campaign for a strengthened patent system in the US which will involve more resources for the USPTO and the courts, as well as other changes that would need congressional authorisation and/or funding. I believe that the US Congress needs to give an immediate transfusion of public money to the patent office, which is presently almost dysfunctional for lack of adequate resources – I believe investment by Congress to the order of US$1 billion is needed to revive the patent office. And I'm not going to be restricted to the patent area. In all civil areas the court system is a problem – it's too costly, too slow, too uncertain. It would take a significant investment of public funds in order to add the necessary 100 additional federal judges that are needed to speed up litigation. These are two of the first steps towards a better legal system, a better economic outlook, better job creation and better support for all of the activities of all the companies and inventors here in the US.

What do you plan to do after stepping down from the CAFC?

My main goal is to become a public advocate for strengthened courts, a strengthened patent system and IP in general, because I think it is critical to the prosperity and security of the United States. I will operate as a private citizen rather than joining a think tank or law firm or corporation or a university. I'm going to go on a speaking tour and I want to speak not mainly to lawyers, but to business leaders and legislators and journalists and regulators. It seems clear to me that without support far beyond the legal community, Congress is not any more likely than it has been in the past to provide the USPTO or the courts with the level of support they need.

So that's going to be my main career, but if I have some time left, I would like to mediate, particularly in patent cases, as I'm convinced that mediation can produce results in weeks or months rather than years and at 2% of the cost of full litigation.

You touched on the patent reform debate. In your opinion, which areas of the US patent system are most in need of reform?

What needs reform mainly is the patent office, which is so terribly under-supported. The patent bill in its current form doesn't offer one dollar or one worker more to the office – in fact, it gives the USPTO some very challenging, difficult additional work over and above what it currently does. It seems to me that the USPTO is where 80% to 90% of reform should happen and that the courthouses are not on the whole in need of reform. Legislation isn't able to make the fine-tuning adjustments that courts can, do and should continue to make. I hope that Congress will continue to refine the different proposals and will rely on neutral, independent advisers who have experience. Most of the people who have testified in congressional hearings on the proposed legislation were from individual companies that have had a particular axe to grind. No judges have been called and almost no litigators have been asked to testify either, so most of the advice has come from highly self-interested people. This has made Congress's job harder than it needs to be.

What do you think are the biggest challenges facing the IP world today and how do you think they could best be overcome?

I think the biggest problem is that unless quality patents can be obtained and enforced rapidly and carefully, there won't be enough private investment to support economic growth and increase prosperity anywhere. The patent system is very poorly understood by most people, including legislators and journalists and other people who influence public opinion, so there is an enormous need for education of these opinion makers and the public in general. Otherwise patent systems are likely to be weakened rather than strengthened, and the result in my opinion would be a severe drop in the value of patents and therefore a drop in the incentive of private capital to invest in necessary R&D efforts.

The future of science and the prosperity of all nations are very much caught up in whether we strengthen and improve the patent systems or whether we harm and weaken them; and it's not at all clear to me what direction we are currently heading in. That's the reason I'm retiring from the CAFC. I'm not retiring to become inactive; rather, I am changing jobs because there seems to be a real need for somebody with the right background to speak out.

I expect to be as busy as ever. I love being a judge and have enjoyed every day of the last 22 years at the CAFC. I've found it challenging, worthwhile and very satisfying – I always assumed that I would stay a judge forever. But there is a unique opportunity to try to educate people so the system is improved rather than weakened. Everyone has a responsibility to educate people about patents and I think people do what they can. But I think what's missing is a neutral voice. If a particular company advances a certain set of ideas about how to improve the patent system, it's viewed sceptically by many people as it's not neutral. You would think that perhaps academics would be neutral, but in the US many academics have taken sides. People in the media are dependent on what people tell them and if there's not a neutral voice in the debate, then the debate becomes a squabble between opposing forces who all want different things that would make their industry or their technology richer at the expense of another.

I think everyone is trying to help with the educational effort, but it needs much more muscle and much more energy, and it certainly needs much more neutral, experienced voices. I'm volunteering to be the first. Maybe others will follow – that would be great. I don't have any illusions that I have any great influence, but at least I can speak from experience and people will trust that I have a neutral view because I've heard all sorts of patent cases from all sorts of companies and in all technologies. ■

Jochen Pagenberg – an advocate for change in Europe

Germany is the centre of patent litigation in Europe. And among litigators in the country, there are few who have earned as much respect and admiration as Jochen Pagenberg. With a distinguished track record of fighting cases in Germany's biggest courts, Pagenberg has also found time to advise the German government on IP policy and to work with peers and authorities on a pan-European basis in connection with initiatives such as the EU patent and the single patent court.

Having campaigned tirelessly for a united European patent system, one would expect Pagenberg to be pleased by the outcome of the meeting of EU member states on 4th December last year in which the creation of just such a system was agreed in principle. But that is far from the case. "I am really disappointed with the direction the plans are taking," states Pagenberg. "It goes completely against what was being discussed for the two years prior to December's Council meeting."

Specifically, it is the proposal that European patent courts will comprise three judges, each from a different European nation that Pagenberg finds most difficult to accept.This, he believes, highlights the crux of Europe's problem. "With three judges coming from three different countries what common language will they have?" he asks. "Certainly not the procedural language of that country." The best one can hope for, Pagenberg believes, is that they all speak sufficient English. "But that would still mean that there could potentially be translations of the discussion on difficult technical questions going on during the hearing. And that would be awful."

Pagenberg's greatest concern with the current proposals is that, should they come to fruition, it is the users of Europe's patent system that will ultimately be the losers. "I expect the proposed EU patent courts will be more expensive," he says. "The procedural rules are more complicated, there's the potential for lots of translation and the admin is likely to be a bit heavier." Should the EU patent courts become the only option, it would price a number of small to medium-sized enterprises (SMEs) out of the European market. "SMEs make up perhaps 70% to 80% of patent litigation in Europe," he says. "If you build a system that is only working for the top 10% or so of patent holders, then you destroy competition and the equal chances of other players."

What Pagenberg suggests is a compromise that provides patent owners with choices: a choice of patent and a choice of court. "They can first opt for an existing European patent bundle that covers whichever jurisdictions they wish or an EU patent to cover the whole jurisdiction," explains Pagenberg. "All EU patents would naturally be covered by the EU court. But if they opt for a patent bundle – which could be cheaper depending on the number of countries they seek protection in – they should then have the choice either to litigate in the EU court or to use the national courts as they do today according to their needs." This way, Pagenberg states, everybody would be able to afford litigation. An additional benefit of the two courts working in tandem would be greater efficiency. "Competition between courts has proven to be a great success," he says. "Judges make a real effort as they know they have to compete and so their work is quick and high quality. As we know from other fields, with a monopoly position there is no need to improve."

But Pagenberg believes that the need for harmonisation across Europe is not restricted to patent law. "After the first glorious years of Alicante, many people are now really concerned with not only the quality of the trademarks granted by OHIM, but also the court structure in Luxembourg," he states. While he acknowledges that the General Court and the Court of Justice are not IP specialist by design, he believes users are becoming frustrated by the unpredictability of this system. "You get the feeling that the courts don't follow certain established legal principles," he says. "Rather, they seem to decide on a case-by-case basis so that all of a sudden a decision will go exactly the opposite way to what has been decided

before." A lack of communication between judges and lawyers is further cause for concern for Pagenberg, who is used to full days of frank discussion with the Supreme Court judges in Germany. "In Luxembourg, you have 15 minutes' pleading time and then may come one question from the bench. But there is no possibility to hear from the judges what they are concerned about or what they might have misunderstood." And this is often due to what Pagenberg sees as Europe's greatest challenge: language barriers. "For litigation, language is the essence and there is no way around it," he states. Pleading to judges who do not have the procedural language as their mother tongue often requires a translator and, as skilled as that person may be, Pagenberg asserts that much meaning can be lost. "Can we solve this problem by annihilating languages and thereby legal cultures (and existing courts) when we reduce the number of languages to one? As with any problem, the first step to solving it is by first accepting there is one." ■

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Ruud Peters – a corporate game changer

"A career in IP was not a long-held childhood dream of mine," laughs Ruud Peters, CEO of Philips Intellectual Property & Standards (IP&S). "I didn't have a clue what the profession would mean for me and I started it as a big adventure." As a student of low temperature physics at the Delft Technical University in the Netherlands, Peters had hopes of joining the research lab at Philips. However, shortly before Peters graduated, his dreams were dashed when the company abandoned its research in this field. Undeterred, Peters decided to pursue a career with the Dutch powerhouse and took a position in the IP department with the intention of moving into research. But he never did end up in the labs. Instead he worked his way up through the ranks at IP&S, becoming director in 1990 and finally chief executive in 1999.

Having worked for the organisation for some time before taking charge, Peters had developed ideas about how Philips's IP could be better managed. He was inspired in part by the management guru and author Michael Hammer, whose work helped him to turn a traditional corporate patent and trademark department into a more dynamic business and customer-focused IP organisation; one with a strong focus on process management and value creation for the customer. "When I was asked to head the organisation, I thought it was an opportunity to see whether I could realise at least some of those ideas," states Peters.

The main Philips board gave Peters a two-hour meeting to plead his case. Armed with a PowerPoint presentation and his belief in the need for reform of the company's IP function, he outlined his plans. "I was very fortunate that the board gave me the benefit of the doubt and the resources and money I needed," he says. But it was made clear that the performance of IP&S would be closely monitored to see whether Peters could deliver what he had promised. "I don't think they've been disappointed," he says modestly.

Having been with Philips IP&S for more than 30 years, Peters has been a prime mover as the company's attitude towards IP has shifted dramatically. "I always say that the IP organisation at Philips didn't change much for the first 80 years of its existence," he says, "but it has been continuously changing in the last 10 years." An awareness of the role that IP plays in day-to-day business operations is found across the company and at all management levels, including the board. The same could not have been said 15 years ago. "If I had asked the board members then how many patents and trademarks we had or how much value we were creating from that portfolio, I don't think I would have received the correct answers," says Peters. "But nowadays I would, which I think illustrates their increased awareness and knowledge about IP and the role it plays in the company." This awareness, he claims, is a result of quarterly business meetings between IP&S and the board, as well as with the top management of all the product divisions. "Regular meetings over the years promote true discussion," Peters explains. "The board and senior management are not just passive listeners; they challenge you and you develop a real interaction over time."

> "The focus should be on how IP can be used to create value"

This practice is clearly working at Philips, but the model remains rare among IP-owning organisations across Europe. "I still come across many of my counterparts in other companies that struggle to get the attention of the board," Peters says. "I feel very lucky to be working in a company where we have already passed that phase and where IP is an accepted element in conducting business." So, what advice would Peters offer to these colleagues? First and foremost, a clear IP strategy is needed. It should be directly linked to the business and explained in clear business terms. "If heads of IP keep talking in legal rather than business language, they will not be successful in getting support for their cause," Peters warns. Once the strategy is in place, how IP is viewed within the business needs to be addressed. "The mindset should not be focused on how to get the best possible patents – although that's clearly important," he says. "Rather, the focus should be on how IP can be used to create value for the company and the different businesses within the company. That should be your starting point."

As CEO of IP&S, Peters is responsible for managing Philips's worldwide portfolio of IP and he has taken a forward-looking, long-term approach to doing just that. This is especially evident in China, a country in which many companies still fear for their intellectual property. "Philips has a long history in China," explains Peters. The company began commercial activities there in the 1920s and, rather than simply exploit the region for its cheap labour, has committed to the continued development of technology and industry in the country in a way that benefits both employees and the company. "We needed to protect the innovations realised in the R&D labs we have in China," explains Peters. "And we needed to support the businesses in their commercial transactions with suppliers and customers, and in their collaborations with universities and institutes." In 2001 Philips decided that it needed to establish a substantial IP operation in the region. It now has four IP&S offices in China employing approximately 50 people. "The main challenge in doing this," explains Peters, "is to build up a local workforce and increase their IP knowledge." Philips has invested much time and money in training, including seconding staff from China to offices in Europe and the US. And this it has borne fruit. "The effort we've put into this training is really paying off," states Peters. "The level of work by people in the IP&S organisation in China is high and they are increasingly contributing on a global level." ■