

IPR 2009

**ANNUAL INTELLECTUAL
PROPERTY RIGHTS INDABA**

19 & 20 November 2009



**IPR Indaba 2009
19 & 20 November 2009**

***Innovation, economic growth and job creation:
The role of intellectual property rights***

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Executive Summary

The IPR Indaba 2009, held over two days, accommodated more speakers than the 2007 and 2008 conferences. In addition to the addresses by the Minister of Science and Technology, the US Ambassador to South Africa and other individual presentations, panel discussions made up slightly more than 50 per cent of the 10 hours of active conference time.

The programme covered a wide range of aspects of IPR. Douglas Lippoldt, OECD, spoke about the role played by IPR in developing countries. Marco Comastri, Microsoft, described the important role that R & D investment plays in IT. Kitisri Sukhapinda, of the US Patent and Transfer Office, explained how the adoption of the Bayh-Dole Act in the United States led to an increase in patent registrations resulting from publicly financed research.

Twenty speakers participated in the panel discussions with vigorous audience interaction on diverse topics such as open innovation and mixed source, realising the potential of publicly financed research, the role of patents in improving health care, reducing hunger in Africa through improved technology, and the harm caused by piracy of music, films and software.

Approximately 170 delegates attended Day 1 of the conference, 115 attended on Day 2, and there were 150 guests at the dinner on the evening of Day 1, despite the drenching rain.

Addressing the third annual IPR Indaba, Minister of Science & Technology, Naledi Pandor, recalled how the Free Market Foundation's Executive Director, Leon Louw, and Cape Town Director, Temba Nolutshungu, had engaged with her and other ANC members on property rights and the 1996 final Constitution. She said the FMF had been very persuasive and made free markets sound like socialism. She spoke about government's strong support for innovation and said, "Government will do everything possible to encourage innovation".

Minister Naledi Pandor



The Minister emphasised the need to protect indigenous knowledge, and in the process advance the cosmeceutical, food or nutraceutical, and African traditional medicine industries. She said such protection was problematic given that, "There is no bright line dividing the many legal from the practical problems relating to the protection of traditional intellectual property rights". She then addressed the new legislation relating to intellectual property from publicly funded research, which, with the legislation on protection of indigenous knowledge, had been subjected to "swinging attacks" but notwithstanding the criticisms, "It makes sense that South Africa should expect some material benefit from public funds invested in universities".

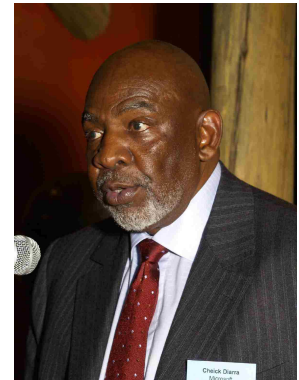
Mrs Pandor said the debate over the broader issue of protecting IP through copyright, patents and trademarks was between those who argue that if IP is protected, it will provide the incentive for people to innovate and to invest their time and resources in developing a new idea, and others who argue that these measures positively inhibit innovation, lock up ideas and prevent creativity. "It is the open-source model that has provided the greatest challenge to traditional models of IP protection", she said. The Minister then discussed cloud computing and how the development "represents a big shift in the attitude to knowledge, innovation and collaboration". She pointed out that it has been government policy since 2007 "to go open source" but that it would probably take the recession "to make government go open source across the board". In closing she said, "I don't think that innovation requires an open or a proprietary approach to IP. There will be a combination of approaches and models in use. Yet the odds are on open source. ... Where the trend is towards open and shared platforms, even Microsoft will have to change its business model if it wants to compete with Google."



In the following address, US Ambassador Donald Gips said that, “Ensuring that government business and civil society are doing all they can to maximise the elements that drive innovation, of which intellectual property rights are clearly a key component, is critical if we are going to succeed in creating a South Africa that realises its true potential.” Mr Gips described the measures that the SA government has taken to protect IP, which he said had, “... contributed to a robust regulatory environment that should make South Africa a model for the developed and developing world.”

Ambassador Donald Gips

The first day of the Indaba concluded with a dinner at which Dr Cheick Diarra (UNESCO Goodwill Ambassador for Science Technology and Enterprise I Vice-President of the UN’s World Commission on the Ethics of Scientific Knowledge and Technology I Chairman for Africa of Microsoft), held his audience spellbound as he described his experiences as an interplanetary navigator with NASA. He oversaw five NASA missions including the Magellan probe to Venus, Ulysses probe to the Sun, the Galileo mission to Venus, the Mars Observer mission, and the Mars Pathfinder mission on which he served as navigator and public outreach manager.



Dr Cheick Diarra



Other Speakers

Mteto Nyati, Managing Director of Microsoft, South Africa, opened proceedings by welcoming those attending. He spoke of the difficulties experienced by creative artists who had told President Zuma of the problems they experienced with labour relations in terms of the law, and of piracy, asking for copyright law to be enforced to prevent their artistic creations from being stolen and their livelihoods destroyed. He urged that if SA wished to be a winning nation its IPR regime should be strengthened and he hoped that the conference would make a contribution towards bringing this about.

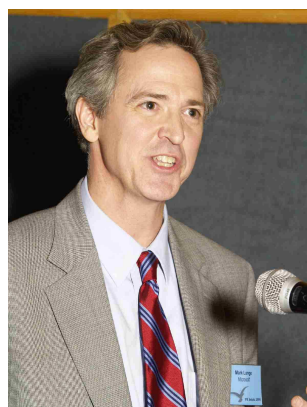


Leon Louw, Executive Director of the Free Market Foundation, commenced his conference overview with the words, “Everything you see around you, other than raw nature, is the product of human innovation and invention, what you’re reading now, what you’re wearing, what you’ve eaten, what cures, entertains, transports, lights, warms, cools, cooks, accommodates, defends, kills, excites and soothes. Nearly everything that matters.” He then described the variety of topics that would be covered at the conference, listed the differences that exist in views regarding IPR protection, and pointed out that IPR is protected to a greater or lesser extent in different countries. He said, “I do want to point out however, how broad the range of topics being addressed is, and of what critical importance it is for this and every country to take it seriously.”

Marco Comastri, Vice President, Middle East and Africa, Microsoft, reported that Microsoft had committed \$9bn to its R&D activities, conducted in 48 countries. The company has 700,000 partners worldwide - other companies assist it in everything it does, which results in a significant amount of activity. For every \$1 of investment there is \$10 of overall production. The Partners in Learning programme, a global initiative designed to actively increase access to technology and improve its use in learning, has 70,500 partners. In South Africa, the Partners in Learning programme involves 20,000 teachers and 1.9m learners. In addition, Microsoft partners are working with 2,000 students who are attracted to IT. Microsoft in SA was founded in 1992 and has 400+ employees. Throughout history, approaches to IP protection have evolved as new technologies have altered the way ideas and information are communicated. Increasingly, there is recognition that intellectual property protection enables companies to bring smart people together from across organisations to collaborate on innovation.



Douglas Lippoldt, Acting Head of the Development Division of the Trade and Agriculture directorate of the OECD, Paris, described how the environment is changing due to such factors as globalisation, new technologies and reform of IPR around the world. This is affecting the incentives for innovation and, in particular, development of intellectual property. Intangible assets have become increasingly important but there is a large gap between developed and developing countries. Developing countries can close the gap by protecting IP to encourage innovation and by implementing complementary policies that provide a sound basis for business development. Developing countries that have taken such steps over the past two decades have tended to see an increase in FDI (including technology transfers), imports of goods and services, and domestic innovation.



Mark Lange, Senior Policy Counsel in the Intellectual Property and Licensing team of Microsoft Law and Corporate Affairs, Europe, spoke about the co-operation and competition that takes place in the software sector. IP continues to reward innovation but the modes of managing it have evolved and IP is being shared in different ways. Vendors are concentrating more on the inclusivity value of IP rather than the traditional exclusivity value. They find greater value from sharing their IP with others who are willing to collaborate to jointly build a more innovative environment than they would by refraining from doing so. Microsoft's default policy is to share its patents and other IP. Ownership of IP enhances the opportunities for meaningful collaboration and open innovation. Former distinctions between "open" and "closed" in the software industry have blurred as a result of the increasingly mixed nature of business models, IP sharing, collaboration and interoperability.

Kitisri Sukhapinda, Attorney Advisor in the Office of Intellectual Property Policy & Enforcement, United States Patent & Trademark Office, described the results of the enactment of the Bayh-Dole Act in 1980, which set up rules for dealing with IPR resulting from publicly financed research. Prior to 1980 the federal government retained ownership of all patent rights emanating from such research and only non-exclusive licences were available for the further development of such research. The result was that companies were reluctant to develop products that could be freely manufactured and sold by later licensees. Many scientific articles were produced but few patents, licences, products or collaborations, and there was no significant return on R&D dollars. In 1980 the government held title to 28,000 patents, of which fewer than 5% had been licensed and not many of those related to commercial

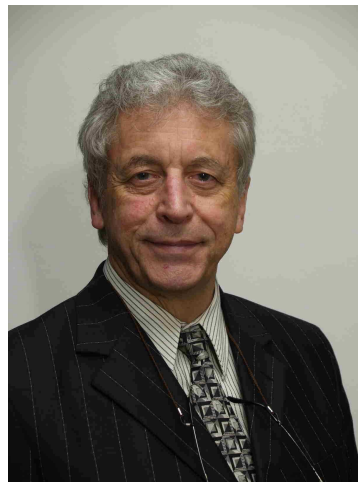


products. The Bayh-Dole Act and complementary legislation changed the incentives of all the participants. Registration of patents by universities increased from 250 per year prior to 1980 to more than 3,000 in 2005. The number of universities engaged in technology transfers increased from an average of 24 to 200 in 2005. By 2000, licensing of innovations and other non-profits added about \$40bn to the US economy and supported about 260,000 jobs.

Masters of Ceremony



MC for Day 1, Chose Choeu



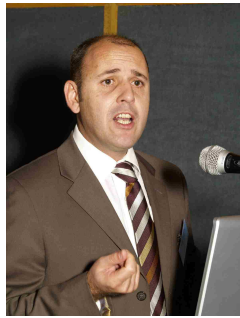
MC for Day 2, Leon Louw

Sponsors

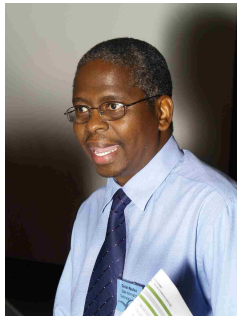
IPR Indaba 2009 was sponsored by Microsoft, International Policy Network, Business Software Alliance and supported by the Information Technology Association.

Panel 1 – Open Innovation and Mixed Source (software)

(Chair: Andre van der Merwe, a Senior Director at DM Kisch Incorporated)



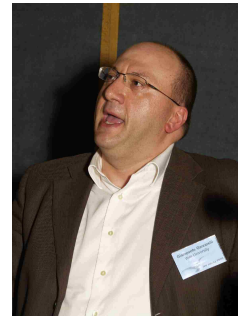
Paulo Ferreira



Daniel Mashao



Barry Dwolatzky



Giampaolo
Garzarelli



Eugene van
Rensburg

Paulo Ferreira (Microsoft) Interoperability principles are based on sharing IP and providing more choice for customers and the industry; that new levels of openness will become the norm in the software industry. Under the circumstances, neutral technology policy is the best way to promote competition and innovation in the software sector. **Dr Daniel Mashao (State Information Technology Agency)** Open source offers a true avenue for innovation; it is no strings attached innovation; it takes away the biggest constraints to technology innovation after education and lack of money; it allows no limits to creativity; it delivers today. What should be protected, what should not and why, are tough questions. The changes in technology impact on how we view our actions; the quest for understanding what should be protected and what should not be protected is therefore a journey and not a destination. We must track the influence of technology to make sound decisions. **Professor Barry Dwolatzky (Wits University and Joburg Centre for Software Engineering)** As the largest procurer of software in SA, government can play a substantial role in local software development. Whereas current government policy is to favour “Open Source” over “Proprietary” it should rather be to favour locally developed software and for that purpose the local industry must deliver high quality, innovative and cost effective software systems. **Dr Giampaolo Garzarelli (Wits University)** The choice between OSS and proprietary software will in the final analysis have more to do with brand name capital and the end-users uncertainty as to who is responsible for the output of production of OSS than with the quality of the respective products. **Eugene van Rensburg (K2)** K2, established in 1998 in South Africa, by 2005 had offices in Australia, Europe, China and New Zealand; and by 2007 had customers in more than 50 countries; serving 15% of Fortune 100 companies; 3.9% share of BPMS; by 2008 it had more than 1 million users; and in 2009 was named the leading visionary for process-driven solutions on the Microsoft platform, in technology analyst Gartner's 2009 Magic Quadrant, demonstrating the ability of SA software companies to compete internationally.

Panel 2 – Realising the Potential of Publicly Financed Research

(Chair: Robert Caveney, University of the Witwatersrand)



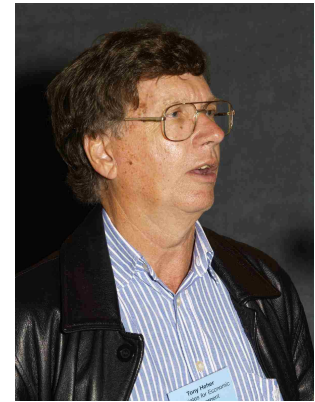
McLean Sibanda



Rory Moore



Van Zyl de Villiers



Tony Heher

McLean Sibanda (Innovation Fund) The object of the IPR-PFR Act is to provide for IPR emanating from publicly financed research to be identified, protected, and utilised and commercialised for the benefit of the people of SA. The Act establishes institutional and benefit-sharing arrangements and provides for co-financed R&D, government rights, local IP transactions, and offshore IP transactions.

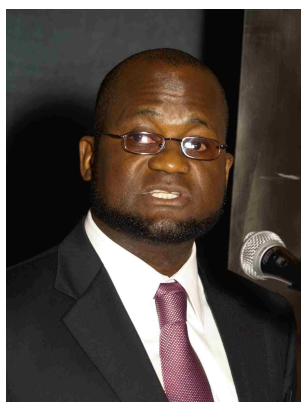
Rory Moore (University of KwaZulu-Natal) Historically at KZN there was no IP office, IP Policy or provision for IP in employment contracts. IP was owned and managed by researchers. Now there is an IP and Tech Transfer Office, the UKZN Innovation Company has been established and IP policy is under development. Three types of innovators are found at the University: 1. Consummate entrepreneurs; 2.

Those “having fun” and disinterested in money; and 3. Those who don’t like the Act and commercialisation of IP. **Van Zyl de Villiers (Nuclear Energy Corporation)** Investment in nuclear R&D should be a long-term commitment, rather than a response to changing global sentiments regarding emerging forefront research fields. This is especially important for nuclear energy and the nuclear fuel cycle. **Tony Heher (Associates for Economic Development)** While it is important to protect intellectual property arising from research and to actively promote the transfer of research results, generating income should not be the primary objective.

Panel 3 – Towards Quality Health Care for All
(Chair: Terry Markman – Free Market Foundation)



Alec van Gelder



Zi Chapanduka



Esmé du Plessis



MacDonald Netshitenzhe

Alec van Gelder (International Policy Network) While technology is evolving quickly, it cannot be a long-term substitute for good public policy. The best means to improving product and medicine safety is a rigorous civil court system and bolstered trademark protection and, ultimately, the rule of law. **Zi Chapanduka (Eli Lilly)** According to researchers, inventions that lifted living standards and increased economic growth the most occurred in countries with strong intellectual property protection. Greater pharmaceutical R&D in South Africa holds considerable benefits for the country such as increased FDI, skills transfers, skills retention and numerous other desirable outcomes. Provision of universal, equitable and accessible health care is not sustainable without strong economic performance. **Professor Esmé du Plessis (Adams & Adams)** The UK Commission on IP Rights and Development 2002 reported on the prevalence of patents for 15 ARV drugs in 53 African countries. In 13 countries no patents existed at all. In South Africa, 13 of the 15 drugs were under patent. Only 6 to 8 of the 15 drugs were under patent in Botswana, Gambia, Ghana, Kenya, Malawi, Swaziland, Uganda, Zambia, and Zimbabwe. In all 53 countries only 21,6% of the possible total patents existed. The prevalence of patents for drugs to treat other ‘neglected’ diseases in these countries was even lower. Less than 5% of drugs on the WHO Essential Drug List were under patent. Of the countries surveyed, 94% had no patents on TB and malaria drugs. Patents are not always the primary cause for inaccessibility of medicines. **MacDonald Netshitenzhe (Department of Trade & industry)** Traditional knowledge (TK) should be commercialised and protected through the orthodox IP system. In general terms, South Africa should see to it that Traditional Knowledge beyond the area of patents is promoted equally. If that is not done indigenous peoples will, in turn, not respect IP. National, regional and international jurisdictions should respect the IP system that respects TK. On the whole, policymakers have shown encouraging signs of giving proper recognition to TK in their evolving policies.

Panel 4 – Reducing Hunger in Africa – The role of technology

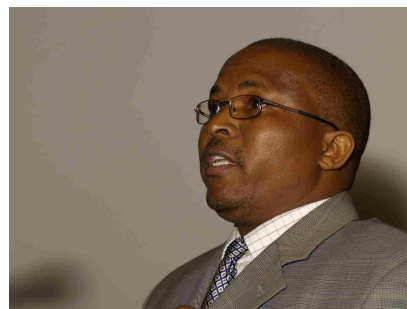
(Chair: Chose Choeu, Microsoft)



Wally Green



Jasson Urbach



Shadrack Mabuza

Wally Green (Crop & Plant Biotechnology Services) Africa is the only continent where agricultural output per capita is falling. Maize crops average 1 ton per hectare, compared to the 8 tons per hectare that is achievable and the world average of 5 tons per hectare. Negative regulation together with commercial pressure for trade protectionism raises the bar to regulatory approval, discourages innovation and seriously impacts on public sector, university and institutional research programmes. **Jasson Urbach (Free Market Foundation)** Simple technology can make a difference in the lives of Africa's millions of rural farmers by increasing the productivity of their land and increasing incomes. In Africa only 27% of land is planted with modern seeds. Grain productivity per capita is a mere 40% of other developing areas. In contrast, in Asia 82% of land is planted with modern seed varieties that are bred to withstand specific diseases or environmental conditions. Not using the best inputs and equipment available, such as hybrid seeds and basic irrigation systems, prevents African farmers from maximising the productivity of their land. **Shadrack Mabuza (Monsanto)** To address the problem of poor yields, Monsanto first created an accessible and affordable supply system, introducing the Combi or 'Xoshindlala' Pack containing hybrid seed, fertiliser and herbicide, enough to allow a small farmer to plant a small area using technologies utilised by commercial farmers. The new techniques saved time, labour and money and increased productivity. In the Mlondozi region of Mpumalanga yields increased on average from 1.3 to 6 metric tons of maize in two years, an increase of 360% or an additional 4,700 kilograms of maize per family.

Panel 5 – Protecting software and the Arts: Piracy is Theft

(Chair: Alastair de Wet – Business Software Alliance)



Mandla Mnyatheli



Sergey Alpatov



Mark Schultz



James Lennox

Mandla Mnyatheli (Department of Trade & Industry) The global counterfeit industry is valued at \$500-billion (about R3.4-trillion) and has grown from being 7% of the total world trade in 2003 to 10% in 2005, growing at eight times the speed of legitimate trade. Lost revenue in South Africa is estimated to be R2- billion annually. At national and international levels counterfeiting undermines economies, dilutes and compromises authenticity, leads to job losses, is a health and safety hazard, promotes criminality, encourages organised crime, and advances terrorism. At the individual level it stifles innovation, undermines intellectual endeavour, retards creativity, is harmful to health and safety, and kills employment opportunities. **Sergey Alpatov (Microsoft)** IT sector growth is one of the most important factors in economic development and the industry and its future are totally dependent on IP protection. Weak IP protection and software piracy slow down IT industry development and impact the entire economy and society. A series of broad IPR awareness campaigns were run to educate end-users, the general public and young people with the Ministry of Education providing schools with genuine software. The government also co-operated with anti-piracy associations. The result was that software piracy in Russia declined from 87% to 68% between 2004 and 2008. **Professor Mark Schultz (Southern Illinois University)** Copyright piracy is far more costly to developing countries than most people realise. Most of the costs in a creative work are spent upfront. Creators in developing countries face discouragingly high average costs because their sales are limited by piracy. Local consumers are deprived of the work of local artists who cannot compete with the output of the pirates. Young artists growing up are deprived of local role models. The distinct local voice is lost. **James Lennox (SA Federation Against Copyright Theft)** Enforceable and enforced IP rights underpin the film industry by creating an environment for risk takers to fund projects. Irrespective of the means of distribution, producers need to show a return on investment. Piracy increases the difficulty and the cost of raising finance. With a “small” local market and low audience development, local films feel the impact of piracy more acutely.

Media Coverage

IPR Indaba 2009 sparked enormous media interest.

Mark Lange, Senior Policy Counsel in the Intellectual Property & Licensing team of the Microsoft Law and Corporate Affairs department in Europe, was interviewed with Alec van Gelder, Project Director at International Policy Network (IPN), on *News International* TV early on the first morning of the conference. Lange was also interviewed by *Brainstorm*, aimed at CEOs in the IT industry, and by *IT Web*, which published two additional stories: one on Minister of Science & Technology Naledi Pandor's presentation and one on the contribution of US Ambassador Donald Gips.

Leon Louw, Free Market Foundation Executive Director, set the scene with four overview interviews prior to the conference. The first resulted in an article in *Engineering News* in their special feature on intellectual property law. This was followed by a *Classic FM* radio interview, an *SABC News Current Affairs* radio interview and a *News International* TV interview. *News International* TV also recorded a 15-minute session with Louw for *Business Review*.

The Star Business Report interviewed keynote speaker Douglas Lippoldt, as did *Beeld*. In addition, *Beeld* interviewed two attorneys participating in the Indaba: Andre van der Merwe and Esmé du Plessis.

The *Randburg Sun*, a well-read local newspaper, published a 200-word article, while the bigger *Sunday Independent* requested a 1,000-word article quoting James Lennox, CEO of the Southern African Federation Against Copyright Theft (SAFACT), and Mandla Mnyatheli, Chief Director in the Consumer and Corporate Regulation Division of the Department of Trade and Industry.

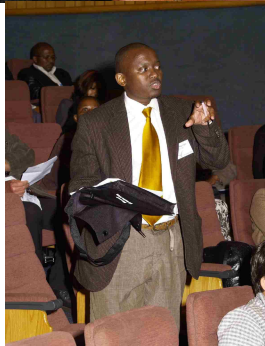
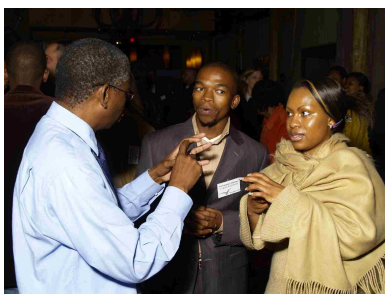
News 24, an internet based publication with 1,4 million readers, interviewed Professor Mark Schultz, who teaches at Southern Illinois University School of Law and is co-author of *Nashville in Africa*, and published an article entitled *Spotlight on music piracy*. Schultz was also interviewed by *CNBC Africa* TV on the economics of creative industries.

Sergey Alpatov, Microsoft's Anti Piracy Director, was interviewed on *ETV News*, and Charl Everton, Vice Chairperson of Business Software Alliance by *Kaya FM* radio.

The pre-conference press release was prominently published in *Business Day* and Minister Naledi Pandor's participation was noted beforehand on the *South African Government Information* website.

Still to come: *Health Review* will publish an article on the conference, which will include its interviews with Alec van Gelder and Esmé du Plessis; *De Rebus* will run a 500-word article and photo of Esmé du Plessis in their Jan/Feb 2010 issue; and *Radiosondergrens* will interview Leon Louw for their education programme.

Comments from Delegates & Participants



Thank you for inviting me to the IPR Indaba.
It was just a pity that I couldn't attend the session on the 19/11/2009.
I found the Indaba very helpful.
Can you please forward me the presentations?

*I greatly appreciated the IPR conference and was happily surprised at the amount I learnt.
The content, speakers, emphasis and organisation were all great.
Very many thanks!*

It was great to be on the IPR Indaba.
I will make sure I will be part of the conference next year.
I will be glad if I can get the presentations of that day.

*The final product is normally a resultant of the nature of the process. We enjoyed the participation because of the good organization and coordination.
Keep up that good work.*

The IPR Indaba 2009 is a very fruitful and successful conference, and a nice experience for me.
Thanks a lot for your hard work.
The presentations are quite interesting for me, and I want to look for some details.
Could you please tell me where to download them?

*Thank you for an insightful and engaging Free Market Foundation gathering held at the Indaba Hotel from 19th to 20th November 2010. I was refreshingly informed by both your speakers and FMF principles regarding intellectual property rights in SA.
Unfortunately, I was unable to leave my business card as I had pressing issues that arised before the scheduled closure of the conference. It is in this light that I request for you to kindly forward me contact details of attendees and speakers that were present. Furthermore please forward me your guests presentations, without being bias, giving great preference to Giampaolo Garzarelli's presentation.
Thank you greatly*

It was a pleasure taking part and being there. There is always so much to learn from others.
It was also great having the Minister and the Ambassador there and the other speakers.

I would just like to congratulate and thank you for holding such a fantastic event. This is the first Free Market Foundation event I have been to and I was just so impressed. The vast majority of the topics, speakers and presentations were thought provoking, motivating and relevant. The event was balanced and informative and it was especially refreshing to listen to motivated, intelligent government representation. In particular, Minister Pandor and Mclean Sabanda's presentations illustrate that we have some very positive, drive, insightful leadership in government. Very refreshing. I obviously need not even mention Mali to Mars – fascinating! Well done! I can't wait for the next event. Please pass compliments on to everyone involved in putting the event together. Great job!

Just a short note to thank you for the opportunity to present our views on piracy at the recent IPR Indaba. The conference organisation was very professional and I was pleasantly surprised with the staying power of the delegates attending our session at the end of the 2 days.

Collateral

Included in the conference bags, sponsored and branded by Microsoft, were the following:

- Programme
- Speaker biographies, synopses & presentations
- Rory Moore's paper: *Perceived Pros and Cons of the Intellectual Property Rights from Publicly Financed Research and Development Act*
- FMF in brief & membership form
- FMF in the media – June to November 2009
- CD: *Ideas for a Free Society*
- Robert Cooter's occasional paper: *Innovation, Information & the Poverty of Nations*
- Jasson Urbach & Daniel Sacks' study: *Fixing Famine: How Technology and Incentives can Help Feed Africa*
- Jasson Urbach's study: *Paying for Intervention: How Statutory Intervention Harms South African Health Care*
- Microsoft's DVD: *Resource DVD 2009*
- Microsoft's flyer: *Interoperability by Design*
- Business Connexion's flyer: *PMO Establishment & Improvement Services*
- Business Connexion's flyer: *Project and Programme Management*

Speaker Biographies

Mteto Nyati

Welcome

Mteto Nyati has been managing director of Microsoft South Africa since 1 September 2008. He came to Microsoft from a 12-year career at IBM, where he held a series of senior executive roles, including that of an executive director of IBM's South African operations. His efforts saw him awarded IBM's prestigious Golden Circle for 2008. Mteto has a BSc degree in Mechanical Engineering from the University of Natal and an MBA from Wits University. In 2004, he was named as one of the Yale University's World Fellows on Global Leadership.

Leon Louw

The role of IPR in economic growth: Conference overview

Leon Louw is a well known South African personality who, for over a generation, has been active in diverse aspects of public life. He is credited with having had a significant impact on the course of events in South Africa, especially regarding the extensive economic reforms that have taken place during the past two decades. He has received numerous international awards, and, with his wife, Frances Kendall, has been nominated three times for the Nobel Peace Prize. Presently he is the Executive Director of the Free Market Foundation (FMF) and of the Law Review Project (LRP).

Marco Comastri

How intellectual property rights can help economies to thrive and grow

As vice president, Middle East and Africa at Microsoft, Marco Comastri leads a vibrant region that is at the centre of Microsoft's future plans, both for the relevant business growth opportunities and for the initiatives of social development. As such, part of his role is to support Unlimited Potential, the Microsoft project to overcome the "digital divide" through the development and promotion of new products and programmes that will be able to offer, by 2015, new social and economic opportunities to the 5 billion people that have not yet been able to gain access to the benefits of technology. Marco graduated in mechanical engineering in 1985 from the University of Pisa. He is married with three children.

Douglas Lippoldt

Do Stronger IPRs Deliver the Goods (and Services) in Developing Countries?

Douglas Lippoldt is Acting Head of the Development Division of the Trade and Agriculture Directorate at the Organisation for Economic Co-operation and Development (OECD) in Paris. His portfolio of issues includes trade and innovation. He has published a number of papers, briefs and articles on intellectual property and development issues. Prior to coming to the OECD, he worked 10 years for the US Government as an international economist on trade policy, labour market and economic development issues. Currently, he has an academic affiliation with the Groupe d'Économie Mondiale at Sciences Po in Paris.

Mark Lange

Levelling the playing field: Co-operation and competition in the software sector

Mark Lange is Senior Policy Counsel in the Intellectual Property & Licensing team of the Microsoft Law and Corporate Affairs department in Europe. He has been based in Microsoft's Paris office since 1998. Mark works on legislative and government policy issues relating to interoperability, standards, intellectual property, and open source software across the Europe, Middle East, and Africa regions. Mark is a graduate of Northwestern University Law School. Prior to joining Microsoft, he worked for the law firm of Covington & Burling where his practice included general litigation, international trade, and intellectual property.

Andre van der Merwe***Chair***

Andre van der Merwe holds the degrees BSc, Bproc and LLB and is a registered patent attorney. He has been an IP law practitioner for over 30 years and is a senior director of DM Kisch Incorporated, the oldest specialist IP firm in South Africa (which incidentally celebrates its 135th anniversary this year). Andre is a past-president of the South African Institute of Intellectual Property Law and a past-President of the Licensing Executives Society of South Africa (and is still a board member). He has spoken at local and overseas conferences; has published on various legal/IP topics; and is a final year examiner in the Institute's Trademark Practitioners Examinations. His hobby is restoring interesting and classic cars (when he has time!)

Paulo Ferreira***Inter-operability and participation in the world of choice***

As Platform Strategy Manager at Microsoft South Africa, Paulo Ferreira helps customers realise the value of the Microsoft platform – be it the server, the client or the development platform. In this role he regularly engages with the field and regions to provide a direct channel for customer, partner and community feedback. This interaction enables input to be incorporated within Microsoft's forthcoming products and technologies. Paulo also focuses on Interoperability initiatives and working with Open Source communities. Prior to joining Microsoft, Paulo worked for Ericsson, the telecommunications provider in a Marketing Intelligence capacity, and for Novell, the global infrastructure software and services company.

Daniel Mashao***Open source software and the public sector***

Dr Daniel J Mashao is the Chief Technology Officer of the State Information Technology Agency. He is responsible for Research and Development, Government Wide Enterprise Architecture and the open source programme management at SITA. Previously was an Associate Professor from the University of Cape Town. His interest in Open Source is for its potential to enable Africa to compete and participate in the digital age.

Barry Dwolatzky***A strategy for procuring software for the public sector***

Barry Dwolatzky is Professor of Software Engineering at Wits University and Director of the Joburg Centre for Software Engineering (JCSE). After completing both his BSc(Eng) and PhD at Wits he spent 10 years in the United Kingdom. He worked as a researcher at UMIST in Manchester, Imperial College in London and at the Marconi Research Centre in Chelmsford. He is a Chartered Engineer, Chairman of the SA Chapter of the Computer Society of the IEEE and a certified CMMI Instructor. He has been involved in teaching and practicing software engineering since the 1970s.

Giampaolo Garzarelli***The nature of the software adoption dilemma***

Dr Giampaolo Garzarelli is an Associate Professor of Economics in the School of Economic and Business Sciences at the University of the Witwatersand, Johannesburg. He was educated at American University, Washington, DC, Luiss-Guido Carli, Rome, University of Connecticut, Storrs, and La Sapienza, Rome. His main fields of interest are public economics, the economics of organisation, and the economics of social and technological institutions; his current topics of interest include the second-generation theory of fiscal federalism, the coevolution of technology and organisation in open-source software development, and institution formation, growth and decay. He has published in the *Cambridge Journal of Economics, Industry and Innovation*, and *Public Finance Review*, among others.

Eugene van Rensburg***Growing SA's software vendors for global recognition***

Eugene van Rensburg is the Vice President for Africa/Middle East at K2. K2 is a platform for building process-driven applications that improve business efficiency. All kinds of organizations are using K2 to increase efficiency, save money and reduce risk as part of their Business Process Management (BPM) strategy. He is responsible for the commercial business, which is primarily served through a network of trusted partners in the Africa/Middle East regions. Previously he was employed in various roles and has been successful in building a number of sales, service and support organizations. Eugene has a Masters Degree Cum Laude from the University of Johannesburg in South Africa. His thesis was on Chaotic Object Orientated Workflow and Scheduling.

Kitisri Sukhapinda***The Bayh-Dole Act and other technology transfer laws***

Kitisri Sukhapinda (PhD, JD) is an Attorney Advisor in the Office of Intellectual Property Policy & Enforcement, United States Patent & Trademark Office (USPTO). Her responsibilities include assisting foreign governments in capacity building in the areas of patent protection and technology transfer. Prior to joining the USPTO, Kitisri worked in private firms assisting clients in patent prosecution and licensing. Kitisri had helped the National Science and Technology Development Agency, Thailand, set up a technology licensing office and served as its Director. Before becoming an attorney, Kitisri was a scientist at a Fortune 500 company and was named co-inventor of five US patents.

Rob Caveney***Chair***

Dr Rob Caveney has a PhD in solid state physics from Wits University. During his 35 years with De Beers, he was involved in intellectual property matters as well as industry-university relationships. He was a member of the Wits University Research Committee in the 1990s. On his retirement, Rob formed Unidia Consultants cc and was appointed a research consultant to Wits Commercial Enterprise (Pty) Ltd. Since the acceptance of the University's IP Policy, he has been involved in the filing and prosecution of patent applications, technology transfer, contract research and the related IP matters on behalf of the University and the Enterprise. Rob is also retained by De Beers UK to assist in the management of their university research programmes.

McLean Sibanda***The Innovation Fund: Ten years of enabling South Africa's intellectual property***

McLean Sibanda is Acting Executive Director and senior patent attorney of the Innovation Fund – a business unit of the Department of Science and Technology. He holds BSc (Eng) and MSc (Eng) degrees from the University of the Witwatersrand, and LLB and LLM (Commercial Law) degrees from UNISA. He is a practicing attorney of the High Court of South Africa, and a registered patent attorney. He has wide legal experience in intellectual property and commercial law, with particular interests in patents, copyright, commercialisation of intellectual property, deal structuring, company law, and commercial law. Over the last 4 years, he has worked with the DST on development of the Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (IPR Act) and associated regulations. He is currently seconded to the DST for IP related matters and development of capacity for roll out of the IPR Act. He also sits on the Boards of PlantBio and the CSIR, and currently chairs the CSIR's Intellectual Property and Technology Transfer Advisory Committee.

Rory Moore***Starting a tech transfer office in South Africa: The experience at the University of KwaZulu-Natal***

Rory Moore is a Registered South African Patent Attorney with experience in patent prosecution and litigation. He has an honours degree in Chemistry and an LLB (from the University of KwaZulu-Natal). Rory trained at Adams & Adams in Pretoria, and moved to Hahn & Hahn, also in Pretoria. He then lived in Jersey in the Channel Islands, where he worked at Computer Patent Annuities in the field of patent and trade mark renewals. In 2008 he started work at the University of KwaZulu-Natal as Director of that university's new IP & Tech Transfer Office.

Van Zyl de Villiers

Conversion of nuclear and radiation research into economic benefits

Dr Van Zyl de Villiers has an MSc in Chemistry (with a thesis on the determination of trace elements in uranium ores) and a PhD (with a dissertation on inorganic ion exchangers and their use in radioactive waste treatment), both from RAU (now the University of Johannesburg). Van Zyl is the general manager of the Research and Development Division of Necsa, the South African Nuclear Energy Corporation, at Pelindaba. The division is responsible for research, development and technology demonstration in the nuclear fuel cycle and in applications of radiation science and technology. The group also coordinates South Africa's participation in the technical cooperation programme of the International Atomic Energy Agency (IAEA).

Tony Heher

Academic IP: the good the bad and the ugly!

Tony Heher is a Director of Associates for Economic Development. He has a BSc in Physics, an Honours in Electrical Engineering, a Masters in Mechanical Engineering, a PhD in Computer Science and an Executive MBA. After 30 years as a control engineer, he "retired" and for the last 15 years he has worked primarily on the economics of innovation and eco-tourism, using the same modelling techniques for both! Despite 5 years in the academic IP world at UCT, where he was director of UCT Innovation and founding President of SARIMA, he has retained an interest in IP matters and still files patents in his own name and on behalf of BEE SME entrepreneurs he is helping and financing. His main passion these days is, however, rock climbing and he has led over 200 climbing meets in the last few years, including opening several new routes on Table Mountain and in the Cape Country mountains. Helping aspirant rock climbers file patents has been but one of many cross-overs in a varied career that gets busier and busier the more he "retires".

Cheick Diarra

From Mali to Mars: The experiences of an African interplanetary navigator

Dr Cheick Diarra's key objective as Chairman for Africa, Microsoft, is to leave a legacy whereby all the people of the continent will be able to access and utilise technology in their everyday lives. Born in Mali, Dr Diarra has a PhD in mechanical and aerospace engineering from Howard University, USA. As an interplanetary navigator, he worked on five NASA missions, including the Mars Observer mission. Dr Diarra is UNESCO's Goodwill Ambassador for Science, Technology and Enterprise; the Vice-President of the UN's World Commission on the Ethics of Scientific Knowledge and Technology; a member of the Independent Commission on Africa and the Millennium; a member of the High Level African Panel on Biotechnology; and the Founder and President of the African Summit on Science and New Technologies (SASNET).

Terry Markman

Chair

Terry Markman is a Civil and Transportation Engineer and has worked in South Africa, Namibia, Botswana, Zimbabwe, Swaziland and the United Kingdom in the field of transport policy, public transport, traffic and transportation engineering, urban infrastructure and airport engineering. He is a Consultant to Arup. Terry is a Council Member of The Free Market Foundation and founded the Transportation Foundation of South Africa to promote the development of black entrepreneurs in the transport industry. He has been responsible for numerous transport policy projects including being a member of the steering committee, which resulted in the deregulation of the South African domestic airline industry and the preparation of a public transport policy for DBSA. He is the author of a book *Transport Policy – A Study of Road Passenger Transport*.

MacDonald Netshitenzhe***Protecting traditional knowledge***

MacDonald Netshitenzhe is Director: Commercial Law and Policy CCRD, at the Department of Trade and Industry (DTI). His encompasses Company Law and Intellectual Property Legislation and Policies. MacDonald has represented the DTI in international forums such as the World Trade Organisation (WTO) and World Intellectual Property Organisation (WIPO) on issues related to intellectual property rights. He has piloted many legislations to Parliament on Company Law and Intellectual Property as well as legislation dealing with “Ambush Marketing” of Mega Events such as 2010 FIFA World Cup. MacDonald also worked on the policy that deals with the Protection of Traditional Knowledge through the Intellectual Property System.

Alec van Gelder***The role of IP in developing and delivering medicines***

Alec van Gelder is Project Director at International Policy Network, a think tank based in London. Alec is author of "Nashville in Africa", "Dirigiste Divide" and "The Broadband Revolution" among other publications and his work on trade, health, technology and development issues has been published in many newspapers including: the Globe and Mail, Boston Globe, Business Day, Wall Street Journal and International Herald Tribune. Alec holds a Master's degree in International Economics and Development from UCL in Belgium and a Bachelor of Science in Finance from Lehigh University in the United States. He speaks English, Spanish, French and Dutch with fluency.

Zivanai Chapanduka***The case for intellectual property protection in the pharmaceutical industry***

Dr Zivanai Chapanduka (Zi) is the Medical, Regulatory and Corporate Affairs Director for South and Sub-Saharan Africa in Eli Lilly and Company. By training, Zi is a specialist medical doctor with the Fellowship of the College of Pathologists of South Africa in Haematology. He holds an MBA degree from the University of Liverpool in England. Zi has authored and co-authored several articles in peer-reviewed medical journals... and cherishes the fact that he has run six Comrades Marathons to date.

Esmé du Plessis***Access to medicines: Are pharmaceutical patents a barrier? A legal perspective***

Professor Esmé du Plessis is a qualified patent attorney (she was the first woman in South Africa to be admitted in 1965) and a former partner of Adams & Adams (again the first woman to be admitted in partnership in 1966). Having retired at the end of February 2004, she is currently a full-time consultant at Adams & Adams, a top-rated national and international law firm specialising in intellectual property. Her areas of specialisation are patents, copyright, industrial designs, and international aspects of intellectual property law. Esmé has a BSc and LLB from the University of Pretoria.

Naledi Pandor***Message from the Minister***

Minister Naledi Pandor is Minister of Science and Technology, a Member of the National Executive Committee of the African National Congress, and a Member of Parliament, a post she has held since 1994. Minister Pandor matriculated in Botswana in 1972, has an MA in Education from the University of London, a Diploma in Leadership in Development from the Kennedy School of Government, Harvard University, and an MA in General Linguistics from the University of Stellenbosch. Minister Pandor began her working career as a teacher in London. Since then she has lectured at the University of Cape Town, chaired the Desmond Tutu Education Trust, been the ANC Whip in the National Assembly and held the post of Chancellor of Cape Technikon. From 2004 to 2009, she was Minister of Education.

Donald Gips***Innovation: Unlocking South Africa's potential***

Donald H. Gips of Colorado, a telecommunications executive, is the new U.S. Ambassador to the Republic of South Africa. Prior to his appointment, Ambassador Gips served as Assistant to the President and Director of Presidential Personnel for President Obama. He moved into this role after serving on the Board of President Obama's Transition and leading the Agency Review. Prior to joining President Obama, he served as Group Vice President in charge of Global Corporate Development for Level 3 Communications, Inc. Before joining Level 3, Ambassador Gips served in the White House as Chief Domestic Policy Advisor to Vice President Al Gore. Ambassador Gips graduated magna cum laude from Harvard University and went on to receive a Master's degree from the Yale School of Organization and Management. He is married to Elizabeth Berry Gips and they have three sons.

Chose Choeu***Chair***

Chose Choeu is Director of Law and Corporate Affairs at Microsoft South Africa and President of the Information Technology Association. Prior to joining Microsoft, Chose held the position of Executive of Regulatory, Government Relations and Public Policy at Telkom. Before moving to Telkom he served the South African Parliament as Undersecretary to both the National Assembly and the National Council of Provinces. Before 1994 Chose was a Principal of RT Mokgopa High School in Thaba Nchu. Chose, a Fulbright Scholar, has numerous degrees including a Masters Degree in International Relations (University of Denver) and a Masters Degree in South African Political Economy (University of Port Elizabeth).

Walter Green***How over-regulation stifles innovation***

Wally Green acquired his BSc. degree at Rhodes University with majors in Entomology and Zoology in 1964. He has 45 years experience in the Agricultural Sector, responsible for research and development and regulatory approvals on pesticides and modern plant biotechnology. From 1994 involved exclusively in the research, development and regulatory approvals of transgenic crops in South Africa. He has authored several papers and made presentations on the subject of modern biotechnology at conferences, workshops and symposiums. He currently provides a consultancy service on the regulation of modern biotechnology through Crop and Plant Biotechnology Services CC.

Jasson Urbach***How technology and incentives can help feed Africa***

Jasson Urbach obtained a Bachelor of Commerce degree, majoring in Finance and Economics, at the University of Natal. He then completed an Honours and a Masters degree in Economics. The subject of his Masters' dissertation was *The Determinants of Labour Force Participation of the Elderly*. He works as an economist for Africa Fighting Malaria as well as the Free Market Foundation and is a Director of the Foundation's Health Policy Unit. He is the author of several academic papers and opinion pieces, many of which have been republished in the popular media.

Shadrack Mabuza***Seeds of hope for Africa***

Shadrack Mabuza acquired his BSc in agriculture from the University of Swaziland and his MSc in Marketing and Product Management from Cranfield. He joined the seed industry in 1992 as Marketing and Sales Manager for Pioneer Hybrid International (PHI). Today, Shadrack is the Smallholder Development Manager for Monsanto South Africa. He has been instrumental in the transfer of new technology such as 'Xoshindlala' packs and biotechnology amongst smallholder farmers in South Africa. In most communities, he is referred to as "Mr Xoshindlala" (chase away hunger) because of his positive contribution towards hunger alleviation. He is also responsible for improving Monsanto's seed distribution network outside the borders of South Africa.

Alastair de Wet***Chair***

Alastair de Wet is the chairman for the Business Software Alliance (BSA) and also the regional Anti-Piracy manager at Adobe Systems South Africa focusing on Africa. He has been a committee member of the BSA for the last five years and chairman for more than a year. Alastair is very knowledgeable on issues within the anti-piracy space specifically looking at the IDC Piracy report findings, legislation, and what has been done by the different industry bodies, such as RISA and SAFACT, to combat piracy.

Mandla Mnyatheli***The cost to South Africa of piracy***

Mandla Mnyatheli joined the Department of Trade and Industry as a Chief Director in the Consumer and Corporate Regulation Division (CCRD) in charge of the Office of Company and Intellectual Property Enforcement (OCIPE) in September 2006. Prior to that he was with the National Prosecuting Authority (NPA) as a Deputy Director of Public Prosecutions leading multi-disciplinary forensic investigation teams focusing on fraud and corruption and later with the Financial Services Board (FSB) as a Quality Review Manager. Mandla has a BLur, LLB and LLM (Corporate Law), a Certificate in Money Laundering Control and Detection and is an Advocate of the High Court of SA.

Sergey Alpatov***Piracy prevention and the role of government: Russia's example***

Sergey Alpatov has been Microsoft's Anti Piracy Director for six years. Initially based in Russia, he now operates from Microsoft Headquarters covering the Middle East and Africa. During his years in Russia Sergey developed and implemented a number of approaches and tools contributing to piracy reduction. Piracy in Russia dropped 14% within 3 years according to the IDC. Sergey is a professional marketer with education in the areas of computer science, marketing and general business management.

Mark Schultz***The other costs of piracy and poor enforcement: Less culture, less growth***

Prof Mark Schultz teaches at Southern Illinois University School of Law. He is a frequent speaker and writer known for his work on the law and economics of creative industries. Recently published papers have discussed the viability of "free" business models in the music industry, how social norms affect compliance with copyright law, and how creative industries can contribute to economic growth in developing countries, given the right legal and institutional reforms. He has received a number of awards and recognition for his scholarship and is a 2009-10 Searle-Kauffman Fellow on Law, Innovation, and Growth.

James Lennox***Pirates' onslaught against local films***

James Lennox has been Chief Executive Officer of the Southern African Federation Against Copyright Theft (SAFACT) since February 2005. He is also the Programme Director for Southern Africa for the Motion Picture Association. Prior to joining SAFACT James was the CEO of the South African Chamber of Business (SACOB) as well as serving as the Director of International Trade, Private Sector Liaison Officer for Southern Africa for the World Bank and Secretary of the National Committee of the International Chamber of Commerce.

IPR Indaba 2009 | PROGRAMME
Innovation, economic growth and job creation: The role of intellectual property rights

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|----------------------|---|---|
| DAY 1: Nov 19 | MC: Chose Choeu | |
| 09h00-10h00 | Registration / Tea | |
| 10h00-11h00 | SESSION 1 | |
| 10 mins | Welcome | Mteto Nyati (Microsoft) |
| 20 mins | The role of IPR in economic growth: Conference overview | Leon Louw (Free Market Foundation) |
| 30 mins | How intellectual property rights can help economies to thrive and grow | Marco Comastri (Microsoft) |
| 11h00-11h30 | Tea | |
| 11h30-12h30 | SESSION 2 | |
| 30 mins | Do stronger IPRs deliver the goods (and services) in developing countries? | Douglas Lippoldt (Organisation for Economic Co-operation and Development (OECD)) |
| 30 mins | Levelling the playing field: Co-operation and competition in the software sector | Mark Lange (Microsoft) |
| 12h30-13h30 | Buffet lunch | |
| 13h30-15h30 | SESSION 3 | |
| 90 mins | PANEL: Open innovation and mixed source | |
| | Chair | Andre van der Merwe (DM Kisch) |
| | Inter-operability and participation in the world of choice | Paulo Ferreira (Microsoft) |
| | Open source software and the public sector | Daniel Mashao (State Information Technology Agency) |
| | A strategy for procuring software for the public sector | Barry Dwolatzky (Joburg Centre for Software Engineering) |
| | The nature of the software adoption dilemma | Giampaolo Garzarelli (Wits University) |
| | Growing SA's software vendors for global recognition | Eugene van Rensburg (K2) |
| 30 mins | The Bayh-Dole Act and other technology transfer laws | Kitisi Sukhapinda (US Patent & Trademark Office) |
| 15h30-16h00 | Tea | |

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| 16h00-17h30 | SESSION 4 | |
| 75 mins | PANEL: Realising the potential of publicly financed research | |
| | Chair | Robert Caveney (Wits University) |
| | The Innovation Fund: Ten years of enabling South Africa's intellectual property | McLean Sibanda (Innovation Fund) |
| | Starting a Tech Transfer office in SA: The experience at the University of KZN | Rory Moore (KZN University) |
| | Conversion of nuclear and radiation research into economic benefits | Van Zyl de Villiers (Nuclear Energy Corporation (NECSA)) |
| | Academic IP: The good the bad and the ugly! | Tony Heher (Associates for Economic Development) |
| 15 mins | PRIZES WRAP UP | Chose Choeu (Microsoft) |
| 18h00-18h30 | Complimentary sherry / port / non-alcoholic punch in Chief's Boma | |
| 18h30-19h00 | From Mali to Mars: The experiences of an African interplanetary navigator | Cheick Diarra (Interplanetary navigator (worked on five NASA missions) UNESCO's |
| 19h00-21h00 | Dinner / complimentary wine / CASH BAR in Chief's Boma | |



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| DAY 2: Nov 20 | | MC: Leon Louw |
| 08h00-09h00 | Registration / Tea | |
| 09h00-11h00 | SESSION 5 | |
| 60 mins | PANEL: Towards quality health care for all | |
| | Chair | Terry Markman (Free Market Foundation) |
| | Protecting traditional knowledge | MacDonald Netshitenzhe (Department of Trade & Industry) |
| | The role of IP in developing and delivering medicines | Alec van Gelder (International Policy Network) |
| | The case for intellectual property protection in the pharmaceutical industry | Zi Chapanduka (Eli Lilly) |
| | Access to medicines: Are pharmaceutical patents a barrier? | Esme du Plessis (Adams & Adams) |
| 30 mins | Message from the Minister | Minister Naledi Pandor (Science & Technology) |
| 30 mins | Innovation: Unlocking South Africa's potential | Ambassador Donald Gips (US Embassy) |
| 11h00-11h30 | Tea | |
| 11h30-13h30 | SESSION 6 | |
| 45 mins | PANEL: Reducing hunger in Africa: The role of technology | |
| | Chair | Chose Choeu (Information Technology Association) |
| | How over-regulation stifles innovation | Wally Green (Crop & Plant Biotechnology Services) |
| | How technology & incentives can help feed Africa | Jasson Urbach (Free Market Foundation) |
| | Seeds of hope for Africa | Shadrack Mabuza (Monsanto) |
| 60 mins | PANEL: Protecting software and the arts: Piracy is theft | |
| | Chair | Alastair de Wet (Business Software Alliance) |
| | The cost to South Africa of piracy | Mandla Mnyatheli (Department of Trade & Industry) |
| | Piracy prevention and the role of government: Russia's example | Sergey Alpatov (Microsoft) |
| | The other costs of piracy and poor enforcement: Less culture, less growth | Mark Schultz (Southern Illinois University) |
| | Pirates' onslaught against local films | James Lennox (SA Federation Against Copyright Theft) |
| 15 mins | PRIZES WRAP UP | Leon Louw (Free Market Foundation) |
| 13h30-14h30 | Finger lunch | |