

Intellectual Property Rights Indaba 2010



26 November 2010

*Innovation and entrepreneurship:
The role of intellectual property rights*

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Executive Summary

The IPR Indaba 2010 held at the Southern Sun Grayston Sandton on Friday, 26 November 2010, was attended by approximately 120 delegates, and covered various aspects of intellectual property rights.

Douglas Lippoldt, OECD, spoke about policies that make the most of IP protection; Leon Louw, Free Market Foundation, described the potential pitfalls of competition policy; Don MacRobert, Edward Nathan Sonnenbergs, explained how timing was an important factor in making money from IP; and Mark Schultz, Southern Illinois University, discussed how to protect cultural identity while growing wealthy from IP protection.

Eleven speakers participated in the panel discussions with vigorous audience interaction on diverse topics such as South Africa's IP legislation, the role of IP in developing countries and in promoting entrepreneurship, and IP and medical care.



Addressing the fourth annual IPR Indaba, **Douglas Lippoldt**, Senior Trade Policy Analyst in the Trade and Agriculture Directorate of the Organisation for Economic Co-operation and Development (OECD) in Paris, said that the past two decades have witnessed an active period of global reform with respect to policies concerning protection of intellectual property rights (IPRs). He examined – from an empirical, economic perspective – policies that complement the generally strengthened framework for IPRs in developing countries. The core analytical approach, he said, is to consider key relationships at the national level between policy variables and economic outcomes in the context of strengthened IPRs. His analysis highlighted a tendency for IPR reform to deliver positive economic results. Reforms

concerning patent protection have tended to deliver the most substantial results, he said, but the results for copyright reform and trademark reform were also positive and significant. Overall, the policy complements that were found to be most important in facilitating positive results were those related to inputs for innovative and productive processes and to the ability to conduct business. These include policies that influence the macro-environment for firms as well as the availability of resources (e.g. related to education), the legal and institutional conditions and the fiscal incentives.

Leon Louw, Executive Director of the Free Market Foundation, argued that competition policy is a hotly contested issue dealing with pragmatic questions of economic efficiency, consumer interests and profound philosophical questions of property rights and sanctity of contracts. In one corner, he said, we have those who argue that competition policy is necessary to keep markets free of monopolies; in the other we have those who regard competition policy as saying “compete but don’t win”. An aspect of this cleavage, he said, is the debate about whether government protection of intellectual property rights is the creation by governments of artificial monopolies in direct conflict with competition policy, or the recognition by governments of legitimate forms of property. Confusion about the principles and implications of this debate, he said, has resulted in competition policy in South Africa that is primarily anti-market, contradictory and anomalous. On one hand, the Competition Commission ignores blatantly harmful government-created monopolies, including state owned enterprises (SOEs); on the other hand, there is increasingly dubious interference with legitimate competitive behaviour and the imposition of fines, euphemistically called “administrative penalties”, far in excess of what would be considered appropriate in a criminal court. There is no recognition, he said, of the fact that penalties, like all expenses, either have to be recovered from consumers, or, if not recovered, render companies and thus the market less competitive.





Don MacRobert, a consultant to Edward Nathan Sonnenbergs in their Intellectual Property Division, pointed out that provided it is a profitable venture, whoever is the very first to stake a claim in connection with intellectual property, usually makes the money. If a person is the first to invent something, or to coin a particular trademark, or to create a copyright work, should it become popular, that first person or user will be in a fortunate position and could land up making money, he said. An interesting example, he said, was that of Bafana Bafana. Another company registered the trademark before the South African Football Association (SAFA). The registration was upheld by the courts and parliament directed the parties

to resolve the issue privately. The same applies to patents, he said, where the patentee must be *The First in Time* to apply to register the patent – before anyone else uses this or describes something similar. Similarly, in connection with copyright, this exists automatically without registration, but it covers original literary or artistic works. The creator, or the first maker, is the important owner of that copyright, he said.

Prof **Mark Schultz** teaches at Southern Illinois University School of Law. He pointed out that some fear that globalisation, free trade, and free markets spell the end of cultural diversity and local cultures, especially for smaller, less wealthy countries. The rise of a global, undifferentiated monoculture is not inevitable, he said. Economic logic does accord certain advantages to large markets, particularly those that protect economic liberty and freedom of expression. Nevertheless, when people are free to choose, they often choose those cultural products that best reflect their own experiences and culture. The success of the extremely low budget video film industry in Nigeria, Nollywood, illustrates just how much people desire local content, he said. Creative industries can contribute significantly to the economies of developing countries while also preserving and contributing to dynamic local culture. However, these industries need room to breathe and grow. Government policies can create that needed space by supporting property rights and decentralised, free choices about production and consumption. Government policies can also smother creative industries, with either neglect (by failing to enforce property rights) or too much attention (support and control that stifles commercial success), he said.



Other speakers

Vis Naidoo is Citizenship Lead at Microsoft South Africa where he focuses CSI on supporting education, skills development and innovation in South Africa, Swaziland and Lesotho. He opened proceedings by welcoming those attending, noting that Microsoft South Africa has sponsored the annual IPR Indaba for four years. He spoke of Microsoft's support for innovation, an important pillar in their programs aimed at addressing South Africa's priorities. Microsoft believes, he said, that strong IPR laws are vital to innovation, which creates enterprises and job opportunities for South Africans.

Masters of Ceremony



Joint MC, Nyaladzi Mpofu, Microsoft South Africa



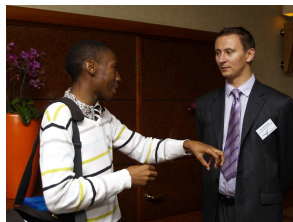
Joint MC, Leon Louw, Free Market Foundation

Sponsors

IPR Indaba 2010 was sponsored by Microsoft South Africa, Vunani Technology Ventures, and Southern Sun Grayston Sandton.



Delegates



PANEL 1: South Africa's intellectual property legislation

(Chair: Andre van der Merwe, DM Kisch Incorporated)



Andre van der Merwe



Dhesigen Naidoo



Robert Vivian



Owen Dean

Dhesigen Naidoo (Director: Research and Innovation Support, University of Pretoria)

Described the experience of universities since the adoption of the legislation on IP from publicly funded research, which is based on the US Bayh-Dole Act, and listed the positives and negatives. A positive result of the legislation, he said, was a greater consciousness among publicly funded organisations and their researchers of the potential commercial value of their research. Negative results included the fact that policing and reporting and the “walk in” rights of the state – the right, for instance, to take IP in the event of a health, security or emergency situation – were causing anxiety in the university environment.

Prof Robert Vivian (Head: Division of Finance, University of the Witwatersrand)

Analysed the government’s instruction to all sectors of government to give preference to open source in their software procurement. Members of government had disagreed on the proposal to give preference to OSS, he said, but had been convinced by a legal opinion that it was a legitimate action. As the South African constitution supports both the protection and taking of property, which is anomalous, he concluded that to act constitutionally, the government as a consumer should be neutral between open source and proprietary software (or change the constitution, which is not recommended).

Dr Owen Dean (Consultant, Spoor & Fisher)

Contended that the “Traditional Knowledge” Bill seeks to attain the unachievable because the rationale behind the Bill is at variance with the philosophy that underpins the intellectual property statutes. It is impossible to graft onto a body of laws that seek to reward personal innovation and creativity (subject to the condition that after the elapse of a given period for private exploitation, the works fall into the public domain and are free for use by all), measures that seek to protect long-standing works that are already common property, he said.

PANEL 2: Promoting entrepreneurship
(Chair: Vis Naidoo, Microsoft South Africa)



Vis Naidoo



Eustace Davie



JB Maree



Kelvin Kemm

Eustace Davie (Director, Free Market Foundation)

Pointed out that Bill Gates is an entrepreneur and innovator *par excellence* in the development of software and that one of Gates' remarkable achievements was to inculcate an entrepreneurial culture in an entire organisation. In his role as Israel Kirzner's entrepreneur, he displayed "vision, boldness, determination and creativity"; in his role as Joseph Schumpeter's entrepreneur he engaged in "creative destruction" – his innovations destroyed previous methods of capturing and utilising data and made previous systems redundant, including his own.

JB Maree (CEO, Vunani Technology Ventures)

Said that there has never been a better time to be an entrepreneur, but that because self-employment is a risky venture many South Africans do not regard entrepreneurship as a positive and viable career choice. This needs to change, he said, pointing out that the ICT sector offers the most potential. Businesses that are most likely to be job creators tend to be opportunity-orientated businesses that have passed the start-up phase and are owned by someone with a tertiary qualification. The key is to understand the challenges, develop leaders and to stimulate entrepreneurship.

Dr Kelvin Kemm (CEO and owner, Stratek)

Contended that the world is rapidly becoming a more complex place in which the rate of change is such that a technology innovator can no longer wait until a prototype is operating before protecting the IP. The same is true of calculating the financial profile for whatever manufacturing plan is envisaged, he said. This reality implies that science and engineering people have to get together with lawyers and accountants at an early stage. In the case of innovation, the multidisciplinary melting pot needs to be actively cultivated and professionally managed, he said.

PANEL 3: The role of IP in developing countries

(Chair: Tshepo Shabangu, Spoor & Fisher)



Tshepo Shabangu



Bernard Martin



McLean Sibanda



Marthinus Horak

Prof Bernard Martin (Deputy Dean: Faculty of Law, University of the Western Cape)

Contended that the notion of collectivism, due for a resurgence generated by the mounting environmental disaster, will also result in the alteration of the existing IP regime, which is situated within the individualist paradigm. The “Traditional Knowledge” Bill provides a rare opportunity for a realignment of existing forms of IP, he said, arguing that it is necessary to situate the protection of Traditional Knowledge within the framework of existing forms of IP and that many of the notions that underlie the Bill are not alien to existing IP forms.

McLean Sibanda (Group Executive: Commercialisation, Technology Innovation Agency (TIA))

Noted that debates about IP are particularly emotive in the developing world as there is a strong link between creativity and social and economic development. In order to promote creativity, he said, investment in research and development is necessary. Little investment in R&D is evidenced by low IP in developing countries where the question of whether IP is a barrier often arises. IP *per se* is not a barrier, he argued, and could be an instrument for social and economic development. Developing countries should focus, he said, on building enabling capabilities to ensure that they are in a position to take advantage of the territorial nature of intellectual property.

Marthinus Horak (Manager: Essential Oils and Medicinal Plants, Council for Scientific and Industrial Research (CSIR))

Explained how CSIR researchers collaborated with traditional healers to develop a novel mosquito repellent candle with superior repellent qualities. The CSIR entered into a benefit-sharing agreement with traditional healers, he said, that acknowledges the value of indigenous knowledge in the scientific invention process and ensures a flow of royalty payments upon commercialisation of the product. As a result of successful test marketing and registration of the mosquito repellent candle, the project is set to start operating as a sustainable business that provides jobs in the agro-processing sector.

PANEL 4: IP and medical care

(Chair: Terry Markman, Free Market Foundation)



Terry Markman



Val Beaumont



Jasson Urbach

Val Beaumont (Executive Director, Innovative Medicines South Africa (IMSA))

Explained that the legal regime in South Africa, as it pertains to the protection of pharmaceutical inventions, has seen a shift of balance in favour of generic medicines. In recognition of the inventive effort and investment by the originator/inventor, it is important that this balance should be restored, she said. This can be done through legislative provisions to protect the scientific data generated by the originator against unfair commercial use by subsequent applicants. Such protection is, in fact, compulsory in terms of Article 39.3 of the TRIPS agreement, to which South Africa is a signatory.

Jasson Urbach (Economist, Free Market Foundation & Director, FMF Health Policy Unit)

Explained that the Medicines Control Council (MCC) is responsible for registering all new medicines in SA and ensuring the efficacy of the drugs on the market. It is currently dealing with a massive backlog in the registration process that could take years to resolve, he said. He proposed that drugs which have already been registered for use in the United States, European Union, Japan and other developed nations, should be registered automatically in South Africa thus avoiding bureaucratic delays and hampering access to new medicines.

Media Coverage

The following coverage resulted from IPR Indaba 2010:

Brainstorm	Attended indaba; to publish article in February issue
Business Day	Published short article from press release Nov 22
CNBC Africa	Interviewed Mark Schultz (Southern Illinois University) in studio 18h15 Nov 25
De Rebus	To publish photos and 500 words on Owen Dean (Spoor & Fisher) and Don MacRobert (Edward Nathan Sonnenbergs) in January issue
ETV	Interviewed Mark Schultz in studio 17h00 Nov 25
Financial Mail	Published article from Douglas Lippoldt (OECD) interview Dec 9
IT Web	To publish article in early 2011
Medical Chronicle	Attended health panel & interviewed Jasson Urbach (Free Market Foundation) and Val Beaumont (Innovative Medicines of South Africa) for article in January issue
News 24	Published article on Don MacRobert Nov 24
News 24	Published article on Bernard Martin (University of the Western Cape) Nov 25
Radio Namakwaland	Interviewed Leon Louw (Free Market Foundation) 08h30 Nov 22
Randburg Sun	Published 200 word article week beginning Nov 22
SABC News Radio: Current Affairs	Interviewed Leon Louw Nov 25
SABC News Radio: Current Affairs	Interviewed Vis Naidoo (Microsoft South Africa) Nov 25
SABC Radio: News Break	Interviewed Leon Louw 06h40 Nov 26
SABC TV	Interviewed Leon Louw in studio 06h45
SAFM Radio	Interviewed Leon Louw 20h40 Nov 27
Sunday Times	MAY publish 600 word article by Jasson Urbach in early 2011 (no space in paper at moment)
The Star: Business Report	MAY publish article from Leon Louw and Douglas Lippoldt interviews in early 2011

Collateral

Included in the conference packs were the following:

- Programme
- Speaker bios & synopses
- FMF in brief
- FMF membership form
- Douglas Lippoldt's paper: *Do Stronger IPRs Deliver the Goods (and Services) in Developing Countries?*
- Douglas Lippoldt & Ricardo Cepeda's paper: *The Strengthening of IPR Protection: Policy Complements*
- Douglas Lippoldt's paper: *Trade and the Economic Recovery: Why Open Markets Matter*
- Robert Vivian's paper: *Constitutionality and the South African State's software procurement policy*
- Robert Vivian's slide presentation
- Owen Dean's presentation: *Traditional Knowledge – A Tailor Made Suit is Required*
- Eustace Davie's paper: *Entrepreneurship – the Source of all Innovation*
- Leon Louw's study: *Habits of Highly Effective Countries*
- Jasson Urbach & Daniel Sacks' study: *Fixing Famine: How Technology and Incentives can Help Feed Africa*
- Robert Cooter's occasional paper: *Innovation, Information & the Poverty of Nations*
- Microsoft's brochure: *The Key to Unlocking our Country's Potential*

Speaker Biographies

Val Beaumont

PANEL: IP and medical care –

Protection of scientific data relating to innovative medicines

Val Beaumont is Executive Director of Innovative Medicines South Africa (IMSA), a trade association representing pharmaceutical manufacturers. Val holds an MPharm (Industrial Pharmacy) from the University of Pretoria and is a qualified assessor. Val's career has been diverse and spans employment in the pharmaceutical industry, academia, retail pharmacy, and as an independent consultant and trainer in both the public and private sectors. She has been involved in the production of pharmaceuticals, medicines regulation, clinical research, and marketing of pharmaceuticals for multinational pharmaceutical companies as a consultant across the MN and Generics Industries. IMSA's member companies are focused on pricing reform, expanding access to innovative medicines, and creating an environment for sustained investment and growth aligned with ASGISA objectives. IMSA is particularly supportive of the initiatives towards universal access to quality healthcare.

Eustace Davie

PANEL: Promoting entrepreneurship –

Entrepreneurship: The source of all innovation

Eustace Davie is a Director at the Free Market Foundation and the author of *Jobs for the Jobless: Special Exemption Certificates for the Unemployed* and *Unchain the Child: Abolish Compulsory Schooling Laws*. Eustace authors many of the Foundation's weekly feature articles and is regularly published in local and international media on labour, money, health care and economic issues.

Owen Dean

PANEL: South Africa's intellectual property legislation –

Traditional knowledge: A tailor-made suit is required

Dr Owen Dean holds the degrees B.A. (Law), LL.B and LL.D. He is a consultant to Spoor & Fisher, specialising in trademark and copyright law with an emphasis on litigation and opinion work. Owen served on the government's Advisory Committee on Intellectual Property Law for twenty years and is a past president of the SA Institute of Intellectual Property Law. Owen authored *Handbook of South African Copyright Law* and was awarded the LexisNexis Butterworths Prize for the best article by a legal practitioner published in De Rebus in 2006. Owen also served as a member of the international editorial boards of *Copyright World* and *Entertainment Law Review*.

Marthinus Horak

PANEL: The role of IP in developing countries –

Creating jobs through innovation: Case study (patented mosquito repellent)

Marthinus Horak is Manager: Essential Oils and Medicinal Plants, Enterprise Creation for Development, at the Council for Scientific and Industrial Research (CSIR). During his 32 years at the CSIR he has been involved in Special Ventures Development, Bioprospecting, and Food and Agricultural Chemicals. Marthinus has a PhD (Chemistry) from the University of South Africa, and was a Post Doctoral Research Fellow in the Chemistry Department at Brown University, USA. His core skills include the development and implementation of R&D strategies for value addition to biodiversity and indigenous knowledge, with specific emphasis on the creation of economic and social benefit through discovery and commercialisation of novel, scientifically proven chemical products based on biodiversity and Indigenous Knowledge.

Kelvin Kemm**PANEL: Promoting entrepreneurship –*****Inventive SA: Profiting from pebble bed and other innovative ideas***

Dr Kelvin Kemm is CEO and owner of Stratek, a business strategy consultancy, and has degrees in mathematics and nuclear physics. On completing his PhD, Kelvin worked as a research and development scientist at the Nuclear Energy Corporation of South Africa. Kelvin believes that a healthy economy needs a wide appreciation of the role of technology and therefore authored *Techtrack: A winding path of South African development*. He also has a column in *Engineering News*. In 2003 Kelvin was awarded the Lifetime Achiever's Award in Science and Technology by the National Science and Technology Forum. He founded the environment and technology lobby group *Green and Gold Forum*, which aims to bring a scientifically accurate and balanced view of environmental issues to the public. In 1994 Kelvin was appointed to the International Board of Advisors of the Washington DC-based environment and technology lobby group, the *Committee for a Constructive Tomorrow*.

Douglas Lippoldt***Policies to make the most of IP protection: More than just another bright idea***

Douglas Lippoldt is a Senior Trade Policy Analyst in the Trade and Agriculture Directorate of the Organisation for Economic Co-operation and Development (OECD) in Paris. His career at OECD has spanned nearly 2 decades and covers a portfolio of development issues around the topics of trade, employment and innovation. He has maintained a particular focus on intellectual property rights, publishing a number of articles on this subject. Prior to coming to the OECD, he worked for the US Government as an international economist on trade policy, labour market and economic development issues. He has an academic affiliation with the Groupe d'Économie Mondiale at Sciences Po in Paris.

Leon Louw***When competition policy harms consumers***

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).

Don MacRobert***First in time with IP ... makes money***

Don MacRobert is a consultant to Edward Nathan Sonnenbergs in their Intellectual Property Division. After practising as an IP Lawyer for 17 years (Don has represented all four SA Nobel Peace Prize Winners: Archbishop Desmond Tutu, President FW de Klerk, President Nelson Mandela, and the Albert Luthuli Foundation) Don set up Get Ahead Foundation, which focused on creating jobs in the informal sector (they created 40,000 jobs in 1998). Don was Founder Chairman of Lawyers for Human Rights in Pretoria and serves on the International Chamber of Commerce, Paris. He is a fitness enthusiast: For fun he ran the original Greek Marathon; for excitement he ran before the bulls of Pamplona; at age 70 he completed the New York Marathon.

JB Maree**PANEL: Promoting entrepreneurship –*****Understanding the value chain of early stage ICT ventures***

JB Maree (B.Com Economics (Hons)) is the CEO of VunaniTech and a Director on the Board of a software company. He has grown software businesses through their phases, locally and internationally. JB displays a flair for all things strategic and has a knack for building businesses, thinking laterally, developing people and deal making. His extensive knowledge of entrepreneurship ensures an open-minded view towards business and an ability to relate to clients.

Terry Markman (panel chair: IP and medical care)

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*.

Bernard Martin**PANEL: The role of IP in developing countries –*****Shaping the intellectual property paradigm of the future***

Prof Bernard Martin (BA LLB (UKZN) LLD (UWC) is Chairperson of the Department of Private Law and Deputy Dean of the Faculty of Law, University of the Western Cape. He teaches and has published on intellectual property law, with a special interest in trade marks (in which he obtained a doctorate) and Indigenous Knowledge. He taught at the first WIPO Summer School in Africa during 2009 and teaches and has published on the conflict of laws. He is the deputy editor-in-chief of the *Law Development and Democracy* journal. His academic career has taken him to the Universities of Cape Town, Venda and Fort Hare. He regularly acts as an external examiner for LLM theses from various Universities, and is currently supervising a number of master's and doctoral students. Prof Martin's practical experience consists of a year as a candidate attorney and 18 years as a High Court Assessor.

Dhesigen Naidoo**PANEL: South Africa's intellectual property legislation –*****Pros and cons of government-funded research***

Dhesigen Naidoo was a serving member of the South African government between 1996 and 2007. In this period he worked for *inter alia* the Departments of Water Affairs & Forestry, Environmental Affairs & Tourism, and Science & Technology where he served as Deputy Director-General. Between 1990 and 1996 he was a biotechnology researcher at the University of Cape Town. At present, Dhesigen is the Director: Research and Innovation Support at the University of Pretoria (UP). He provides strategic research direction and support to the various faculties and manages research contracts and the Intellectual Property portfolio of UP.

Vis Naidoo (welcome & panel chair: Promoting entrepreneurship)

Vis Naidoo is Citizenship Lead at Microsoft South Africa where he focuses CSI on supporting education, skills development and innovation in South Africa, Swaziland and Lesotho. An important part of Microsoft's Citizenship is related to transformation within the company and driving the employee volunteer programme. Vis was previously the CEO of Mindset Network, a non-profit organisation that creates, sources and distributes educational content on a mass scale across Southern Africa using satellite and broadcast technology. Prior to joining Mindset, Vis was based in Vancouver at the Commonwealth of Learning (COL), an inter-governmental agency focused on promoting the use of distance education and ICTs to support education and socio-economic development. Vis' qualifications include a B.Sc Degree, a Masters in Education and a post-graduate Diploma in Adult Education. In 2004 Vis was selected as a finalist in the Policy category of the World Technology Network Awards.

Mark Schultz***Growing wealthy while preserving cultural identity***

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.

Tshepo Shabangu (panel chair: The role of IP in developing countries)

Tshepo Shabangu is a partner at Spoor & Fisher. She was admitted as an Attorney of the High Court of South Africa in 1999, qualified as a Trade Marks Practitioner in 2003, and was admitted as a Notary Public of the High Court of South Africa in 2005. Tshepo has significant experience in managing the commercial and IP portfolios of blue-chip companies, including the negotiation and drafting of commercial agreements and advising local and international companies regarding the identification, protection, exploitation and management of their IP. She was involved, amongst others, in the reviewing, drafting and finalisation of the World Cup 2006 agreements which included the granting of broadcasting rights, and the employment of, amongst others, dancers, artists and performers who performed at the World Cup hand over ceremony in Germany. Tshepo has recently been elected as President of the South African Institute of Intellectual Property Law.

McLean Sibanda**PANEL: The role of IP in developing countries –*****Intellectual Property – a hindrance or a tool for development?***

McLean Sibanda is Group Executive: Commercialisation, with the Technology Innovation Agency (TIA). He holds Masters degrees in Engineering and Law. He is an admitted and practicing attorney of the High Court of South Africa as well as a South African patent attorney. He has extensive experience in innovation as well as various aspects of intellectual property with a focus on IP management, commercialisation, company law and commercial law, deal structuring, negotiations, IP based joint ventures, various aspects of patent law, with particular emphasis on strategic use of patent information, patent mapping, citations, novelty and freedom to operate aspects. After a rewarding career in research in the field of diamond synthesis he joined the legal profession to qualify as a patent attorney with Adams & Adams. Since 2006, McLean has been at the forefront of the development of the national intellectual property policy framework on publicly financed research and development, as well as the drafting and development of the Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 and its regulations, in his secondment capacity to the Department of Science and Technology. He has represented South Africa in various international forums on Intellectual Property and Innovation, as well as having been an expert for the African Union on the development and drafting of the constitutive documents for the Pan-African Intellectual Property Organisation (PAIPO). He is a fellow of the South African Institute of Intellectual Property Lawyers (SAIPL) and serves on the Board of the CSIR and is a past Vice-President of the Licensing Executives Society of South Africa.

Jasson Urbach**PANEL: IP and medical care –*****Delays in drug registration hamper access***

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.

Andre van der Merwe (panel chair: South Africa's intellectual property legislation)

Andre van der Merwe holds the degrees B Sc, B Proc and LL B 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 celebrated its 135th anniversary last 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 for several years has been a final year examiner in the Institute's Trademark Practitioners Examinations. His hobby is restoring interesting and classic cars (when he has time!)

Robert Vivian

PANEL: South Africa's intellectual property legislation –

Constitutionality of open source software policy

Robert Vivian holds a BSc, Bproc and LLB and is a Professor at the University of the Witwatersrand and Head of the Division of Finance. He is South Africa's leading authority on Insurance and Risk Management and co-author of *The Fundamental Principles of Risk Management*. Robert has written a number of books on South Africa's business history such as *The Story of Mutual and Federal* and *Roche in South Africa*. His research interests include insurance law, decision theory, taxation and economic history.

IPR Indaba 2010 | PROGRAMME | Friday, November 26

Innovation and entrepreneurship: The role of intellectual property rights

08h00-09h00	Registration / Tea	
MCs	Leon Louw (Free Market Foundation) & Nyaladzi Mpofo (Microsoft South Africa)	
09h00-11h00	SESSION 1	
10 mins	Welcome	Vis Naidoo (Microsoft South Africa)
30 mins	Policies to make the most of IP protection: More than just another bright idea	Douglas Lippoldt (Organisation for Economic Co-operation and Development (OECD))
30 mins	When competition policy harms consumers	Leon Louw (Free Market Foundation)
50 mins	PANEL: South Africa's intellectual property legislation Chair Pros and cons of government-funded research Constitutionality of open source software policy Traditional knowledge: A tailor-made suit is required	
		Andre van der Merwe (DM Kisch)
		Dhesigen Naidoo (University of Pretoria)
		Robert Vivian (University of the Witwatersrand)
		Owen Dean (Spoor & Fisher)
11h00-11h30	Tea	
11h30-12h45	SESSION 2	
45 mins	PANEL: Promoting entrepreneurship Chair Entrepreneurship: The source of all innovation Understanding the value chain of early stage ICT ventures Inventive SA: Profiting from pebble bed and other innovative ideas	
		Vis Naidoo (Microsoft South Africa)
		Eustace Davie (Free Market Foundation)
		JB Maree (Vunani Technology Ventures)
		Kelvin Kemm (Stratek)
30 mins	First in time with IP ... makes money	Don MacRobert (Edward Nathan Sonnenbergs)
12h45-13h45	Buffet lunch	

13h45-15h15	SESSION 3
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60 mins	PANEL: The role of IP in developing countries	
	Chair	Tshepo Shabangu (Spor & Fisher)
	Shaping the intellectual property paradigm of the future	Bernard Martin (University of the Western Cape)
	Intellectual Property - a hindrance or a tool for development?	McLean Sibanda (Technology Innovation Agency)
	Creating jobs through innovation: Case study (patented mosquito repellent)	Marthinus Horak (Council for Scientific and Industrial Research (CSIR))

30 mins	Growing wealthy while preserving cultural identity	Mark Schultz (Southern Illinois University)
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15h15-15h45	Tea
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15h45-16h30	SESSION 4
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30 mins	PANEL: IP and medical care	
	Chair	Terry Markman (Free Market Foundation)
	Protection of scientific data relating to innovative medicines	Val Beaumont (Innovative Medicines South Africa (IMSA))
	Delays in drug registration hamper access	Jasson Urbach (Free Market Foundation)

15 mins	PRIZES WRAP UP	
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