

## E-Newsletter

### Third Issue – January 2005

**Dear Members,**

On behalf of the board of LES Benelux I should like to wish you good health, happiness and prosperity in 2005. I hope as well that the common interest all members share in the practice of licensing and technology transfer will continue to benefit from the activities of LES, both at the international (LESI) and the local/regional (Benelux, in the case of our own chapter) level.

Licensing/IP matters are but one of many issues which beset us in this complex world, but we are reminded daily in the media of their enormous importance for human progress. We are at the threshold of so many important advances in science and medicine, but these require business models involving collaboration if their chances of success are to be maximised. We are also made regularly aware of dilemmas, and unfortunately also of practices such as counterfeiting which are illegal and against the long term interests of legitimate stakeholders. The topic meeting on 1<sup>st</sup> December 2004 in Amsterdam covered well this aspect (and others) of trademark management. The presentation on counterfeiting revealed the staggering extent of this illegal trade (estimated at 450 billion dollars annually, and rising). The slides from some presentations given at this meeting are available as usual on our website <http://www.benelux.les-europe.org> and can be accessed both by our members as well as non/members (for a guest log on). A report of the meeting on trademarks is given below in this newsletter.

I mentioned above the importance of licensing for developing technologies and in this regard it is worth mentioning that LES Benelux was admitted last August as a member of the Netherlands Platform for Innovation and Industrial Property. This platform is a very active instrument for disseminating IP knowledge among start up and small-medium sized companies, and our charter to provide education, networking and best practice sharing was seen as a good fit with the platform's objectives. I would like to harness the wide experience of our members (from BE and LUX as well as NL) for the benefit of this endeavour.

The society also took part (with EPO and other sponsors) in an international symposium on Nanotechnology and IP, held at the Hague EPO offices last November. A brief report is given attached below.

The next topic meeting, on Friday 28<sup>th</sup> January in Brussels, is an extraordinary event which nobody should miss, as it involves a meeting of LESI delegates from around the world rolled into a special LES Benelux Meets the European Institutions meeting. The setting and arrangements for this meeting are exceptionally good, so it should offer outstanding opportunities for education, networking and socialising. Please study the invitation you have already received or visit <http://www.benelux.les-europe.org/> and respond at your earliest convenience.

Finally I would urge you to make early payment for your membership subscription for 2005. By so doing you help save the society's officers much effort and enable us to contain our costs as much as possible.

Thank you, and I look forward very much to welcoming you to Brussels at the coming meeting.

Yours sincerely,  
Nigel Wagstaff  
President LES Benelux  
E-mail [wagstaff@wanadoo.nl](mailto:wagstaff@wanadoo.nl)

### **New members for LES Benelux**

Mr. Steef Blok, Erasmus Medical Center, Rotterdam - The Netherlands  
Mr. Jaap Bremer, Simmons & Simmons Trenité, Rotterdam - The Netherlands  
Dr. Frank Daelemans, Janssen Pharmaceutica NV, Beerse - Belgium  
Mr. Pejman Djavdan, Stamibarbon B.V., Geleen - The Netherlands  
Mrs. Julie Dumont, Free University of Brussels, Brussels - Belgium  
Mr. Hans Evers, Fuji Photo Film b.v., Tilburg - The Netherlands  
Mrs. Lori-Ann Johnson, Finnegan Henderson Farabow Garrett & Dunner, Brussels - Belgium  
Mr. Jan Krols, IPtology Inc., Sterrebeek-Brussels - Belgium  
Mr. Paul Lelieveld, Agrotechnology and Food Sciences - WUR, Wageningen - The Netherlands  
Mr. Joost Muylle, Gevers & Associates, Gent - Belgium  
Ms. Renée Schipper, CMS Derks Star Busmann, Utrecht - The Netherlands  
Mr. Pierre Schreuder, UMC St. Radboud - Staff Technology Transfer, Nijmegen - The Netherlands

### **Membership**

The invoices for the annual fee 2005 have just been sent out. If your payment will arrive at the account of LES Benelux before 26 January you enjoy a 5% (= Euro 7,50) discount on the fee of Euro 125,00. For more information about membership, please e-mail to [membership@benelux.les-europe.org](mailto:membership@benelux.les-europe.org) and an information package will arrive within a few days. Information on membership and activities of LES Benelux can also be found <http://www.les-europe.org/benelux>. The entrance fee for new members is Euro 40,00.

### **LES Benelux Meetings 2005**

#### ***Friday 28 January 2005 – Conrad Hotel, Brussels (followed by the LESI Winter Meeting)***

LES Meets the European Institutions – Intellectual Property; current issues

More information can be found at <http://www.benelux.les-europe.org/> or to receive a hard-copy of the invitation e-mail to [meetings@benelux.les-europe.org](mailto:meetings@benelux.les-europe.org).

#### ***For your diary***

Wednesday 25 May 2005 – Rotterdam; topic "Co-branding", including Annual General Meeting

Wednesday 28 September 2005 – Brussels; topic "Exploitation of technology in Asia"

Wednesday 30 November 2005 – Rotterdam; "Licensing agreements : when the honeymoon is over"

In the fall of 2005 the biannual LES Benelux Licensing Course will be held again. For more information or pre-registration e-mail to [licensingcourse@benelux.les-europe.org](mailto:licensingcourse@benelux.les-europe.org).

For the above mentioned meetings, invitations with registration forms will be distributed in due time. For additional information, please e-mail to [meetings@benelux.les-europe.org](mailto:meetings@benelux.les-europe.org). Programmes can be viewed on the LES Benelux website, <http://www.benelux.les-europe.org/>, as can the presentations from earlier meetings.

### **Other Meetings**

*LES Britain and Ireland - Annual Lunch - 10 February 2005; The Savoy – London;*

Speaker: Deborah Jaffe; topic: "Ingenious Women"; for more information and registration Sheena Hunter; e-mail [les@glasconf.demon.co.uk](mailto:les@glasconf.demon.co.uk).

*AIPPI Netherlands – Symposium Zeist – 16 March 2005*

For more information and registration e-mail [c.appelman@wanadoo.nl](mailto:c.appelman@wanadoo.nl) or visit <http://www.aippi.nl/>

*LES International Conference 2005; 10 – 15 June 2005; ArabellaSheraton Grand Hotel in Munich:*

Licensing in a changing World. For further information and registration [www.lesi-2005.de](http://www.lesi-2005.de) or e-mail [LES@Zibert.com](mailto:LES@Zibert.com).

*LES Russia - St. Petersburg; 17 – 19 June 2005;*

LES Russia will co-sponsor an International Conference "Effective management of intellectual property – a means of successful business in Russia and its integration in international community" on. Among main topics of the Conference are: Current IP legislation and IPR's enforcement in Russia; Business and licensing activity of international companies in Russia; incorporation of Russia into international economic community and organizations including EU and WTO and Valuation of intangible assets. The Conference will be held at one of the nearest and nice suburbs of St. Petersburg at the Russia's

President Residence, which is located within 15 minutes' reach of the city by a special boat service. The main conference venue for Plenary sessions will be Palace of Congresses, which is equipped with all modern facilities for hosting international meetings. All participants and accompany persons will be accommodated in a luxury Baltic Star Hotel which is also destined for Workshops. The Conference will include sightseeing tours to St. Petersburg and city suburbs – Tsarskoye Selo and Peterhof visiting their worldwide famous museums, palaces and fountains. The Gala Closing Dinner will be held at Palace of Congresses. The Conference is scheduled after the LES 2005 International Conference in Munich and within the extraordinary period of “white nights” in this area. A program and general conditions of the conference will be distributed later and put on <http://www.les-russia.org/>.

## **Meeting Reports**

### ***Rotterdam, 6 October 2004 - “LES Benelux Meets the Judges”***

LES Benelux celebrated another very successful topic meetings with its Rotterdam event of October 6, 2004 “LES Benelux Meets the Judges” covering recent developments in IP jurisprudence. The attractive line-up of speakers ensured a good attendance of 70 members and non-members. The meeting was chaired by Allen Norris of the LES Benelux Program Committee with a panel of adjudicators and practitioners as presenters.

Following an original and entertaining opening speech by His Honour Justice Michael Fysh Q.C. of the Patents County Court on his experience with that Court, EPO Boards of Appeal members Alec Clelland (chair BoA 3.5.3) and Rainer Moufang (Legal Board) provided analysis of the current state of play on patenting of software and business methods and recent Expanded Board decisions respectively. These presentations alternated with practitioners Koos Rasser of Howrey Simon Arnold and White, Lori-Ann Johnson of Finnegan, Henderson, Farabow, Garrett and Dunner and Bert Oosting of Lovells who provided analysis and hands-on advice on the practical implications of recent decisions of U.S. and European Courts in a variety of fields. The program was rounded off by a presentation from Jan Willems former Dutch judge and current member of the EPO Legal Board on the outlook for a Pan-European judicial system.

As with all such LES Benelux meetings, in addition to the valuable substantive content, the meeting provided ample opportunity for informal networking over lunch and at the closing reception which was particularly well attended. Thanks are due to the members of the Program Committee and their colleagues for the considerable efforts put into assembling the speakers and to the event organizers for the impeccable logistics. This event continues the LES Benelux tradition of providing high quality, practical advice to the licensing community at an affordable price.

### ***Rijswijk, 9<sup>th</sup> and 10<sup>th</sup> November 2004 - Symposium on Nanotechnology and Industrial Property Organised by EPO, the LESI Chemical Industry Committee and LES Benelux***

This seminar was one of the EPO International Academy series. LES was invited to co-sponsor and take an active part, which we were happy to do. Bruno Vandermeulen participated in the opening session, extending a welcome on behalf of LES, and Ada Nielsen and Phil Barnett from LES USA and Canada and the LESI Chemical Committee contributed lectures on the topic. Nigel Wagstaff chaired a session and took part in a panel discussion.

The two days were divided between scientific, commercial and IP aspects of nanotechnology. Among the scientific speakers were a German Nobel Laureate and a UK Professor from Oxford University with considerable experience of trying to spin off companies and commercialise nanotechnology (he has been invited to speak at LESI events!).

The main points to emerge from the seminar were:

- Nanotechnology is generic and crosses many boundaries and product markets. It is certainly not just the province of the electronics industry, but enters into a host of “traditional” fields such as catalysis, foodstuffs and healthcare.
- There are huge sums being invested in nanotechnology R&D but not all of this will pay back. We can expect to see collaborations, mergers, takeovers and the like before the industry becomes “mature”; and probably, unfortunately, some losers.
- Everyone agrees that commercial success will depend upon seeking solutions to real problems or challenges in markets rather than just doing great science. The industry needs people who will grasp the entrepreneurial challenge, but with the realism to understand where the niches lie.
- The major patent offices (US, EPO and Japan all gave talks) are aware of the peculiarities of the nanotechnology field. There are not expected to be special issues around “claims”, i.e. this is not a

field like software patenting. There are, however, some special issue relating to categorisation and searching, because of the cross-functional nature of the nanotechnology field. This aspect is being variously addressed by the different patent offices.

- Patenting is seen as an essential business strategy, but the usual pitfalls and ignorance abound. The potential value of striving for exclusivity rather than just freedom to operate in a particular geographical region is often underestimated or neglected because of the cost burden of foreign filing. Strategies involving filing in the US (huge strategic coverage at relatively low expense) are often not considered at all by non-US parties. There was some concern voiced about the cost of European patents, though of course this is certainly not limited to the nanotechnology field, and a solution through the EPO or the EC community patent is not likely to be quickly arrived at. Alternative strategies such as maintaining trade secrets are sometimes considered as a low cost option but the pros and cons need to be carefully weighed.
- There are some genuine concerns in relation to the health, safety and environmental aspects of nanotech materials. People who have been involved in advisory and policy-forming roles (as well as organisations such as Greenpeace - who sent a speaker to take part in a panel debate) would like to see more study in certain areas, though it is widely held that the benefits of the new technology will on balance outweigh any downsides. Nonetheless, the HSE aspects present some additional risk to would be entrepreneurs.
- The EC was represented and it was evident in the discussion that there is a good extent of dialogue between EC and EPO on this and other issues.

In summary, the event, which attracted over 200 people, was a great success and the organisation and social events were well done. The choice of this topic and the international representation, including the major patent offices, attest to the quality and boldness of the themes tackled in the International Academy series. For more information the reader is referred to the website:

<http://academy.epo.org/>

#### ***Amsterdam, 1 December 2004 – Trademarks portfolio management – insights from the inside***

On 1 December 2004, the topic meeting on trademark portfolio management took place in the Victoria Hotel in Amsterdam. The participants in this seminar were treated to a interesting, educational and sometimes spectacular insight in many aspects of this important topic. First speaker was Ronald van Tuijl, Trade Mark Counsel of Unilever. Ronald showed in a very thorough manner how the vast Unilever trademark portfolio is organised. Next speaker was Pierre Konings of AkzoNobel, who spoke about legal aspects of branding and portfolio management in pharmaceutical trademarks. Pharmaceutical trademarks pose their own unique requirements and challenges and Pierre gave a clear outline as to how AkzoNobel faces these problems.

Third speaker was Ellen Gevers of Knijff & Partners. Ellen is an experienced trademark attorney who has advised many clients on the handling of their portfolios. Especially the recent accessions of the United States and the Community Trademark to the International Madrid trademark system poses all sorts of legal and practical questions. Ellen presented the participants with clear guidelines as to how these recent developments can be used to improve trademark portfolio management. Last speaker was Harvey Lewin of Greenberg Traurig in New York. Harvey has a vast experience in anti-counterfeiting and explained in a spectacular style how one can improve a portfolio to improve anti-counterfeiting activities. Harvey showed many examples of successful operations, but also, the not so successful cases, which showed that a trademark owner will always have to remain vigilant to protect its trademarks. As Harvey clearly showed, many problems can already be solved with proper portfolio management.

#### **LES International**

It is possible to add your website link in the Members Links Database accessible from [www.lesi.org](http://www.lesi.org), for a modest fee of US\$ 150 for one year. For more information read the Terms & Conditions at that page or contact [links@lesi.org](mailto:links@lesi.org).

#### **Next E-newsletter will be issued in May 2005.**

This electronic newsletter is written specifically for LES Benelux members and others with a professional or business interest in all aspects of technology transfer and the licensing of intellectual property. Unless indicated as author's copyright and subject to acknowledgement of the Society, all material may be used freely in other publications. Unless otherwise agreed, acceptance of any submission for publication in this Newsletter is on the understanding that the author also consents to publication in the same or edited form on the LES Europe site at [www.les-europe.org](http://www.les-europe.org). Editorial inserts, advertising enquiries and contributions should be addressed to Saskia van Dijk-Struyk, Administrative Consultant LES Benelux, Lodewijk de Vromestraat 25, NL-3962 VG Wijk bij Duurstede, phone +31 343 575 397; fax +31 343 594 566; e-mail [info@benelux.les-europe.org](mailto:info@benelux.les-europe.org).