INTELLECTUAL PROPERTY DISCUSSION GROUP (IPDG)
TERM CARD
MICHAELMAS TERM 2024

Convenors: Phoebe Woo, Max Wong and Mohammad Ataul Karim

Welcome Event: with Prof. Dev, Emily, and Robert

Inaugural session of the IPDG for AY 2024-25. Professor Robert Burrell, Professor Dev S. Gangjee, and Professor Emily Hudson will welcome the new students formally into the Oxford IP community. The convenors of the IPDG will explain the role of the IPDG and outline the activities planned for the year.

(Week 3)
Date: 31 October 2024 (Thursday)

Time: 03.00 pm -4.00 pm
Venue: Seminar Room D, Faculty of Law Building, St. Cross Road
Light Refreshments will be provided

Seminar by Katarina Foss-Solbrekk and Dr Gabriela Lenarczyk

(Week 6)
Date: 22 November 2024 (Friday)

Time: 12.00 pm to 01.30 pm
Venue: Seminar Room F, Faculty of Law Building, St. Cross Road
Light Refreshments will be provided.

Title: Code, courts, and confusion: The patentability puzzle of neural networks

Abstract: Comptroller-General of Patents v. Emotional Perception AI Limited stands as a landmark decision at the crossroads of artificial intelligence ('AI') and intellectual property law. In this case, the Court of Appeal held that an artificial neural network (ANN)-based media recommendation system is excluded from patentability as a "program for a computer as such" under Section 1(2) of the Patents Act 1977, overturning the High Court's earlier decision. The majority opinion contends that ANNs, irrespective of their implementation in hardware or software, constitute computer programs and that the invention lacks a technical contribution beyond this exclusion.

This ruling raises critical questions about the adequacy of current patent law to protect AI innovations. By equating ANNs with traditional computer programs, does the Court risk stifling innovation in a field that increasingly underpins technological advancement? Given the limitations of patent protection for AI technologies, can and should we turn to other forms of intellectual property ('IP') protection?

This presentation critically examines the Court of Appeal's reasoning in Comptroller v. Emotional Perception AI Ltd, exploring its implications for the patentability of AI technologies and the potential shift towards alternative IP protections. Furthermore, we consider whether the current legal framework is equipped to accommodate the realities of AI or if legislative reform is needed to foster innovation while maintaining the integrity of patent law. Ultimately, we ask: does this decision reflect a prudent adherence to statutory exclusions, or does it highlight a pressing need to rethink how we protect and encourage breakthroughs in AI?

Biography:

Katarina Foss-Solbrekk is a DPhil candidate in Law at the University of Oxford. Her research focuses on pharmaceutical patent law, with the aim of ensuring timely and affordable access to generic/biosimilar drugs. Her DPhil is funded by the Social Sciences Graduate Studentship from St Hilda's College and a Schjødt stipend.

Katarina has published articles in leading IP/tech journals, presented her work in several forums at the University of Oxford and at the EPIP Conference, and contributed to the Research Handbook on EU Data Protection Law. Her published research was recently cited in a decision by the Technical Board of Appeal of the European Patent Office and was awarded the 2023 European Policy for Intellectual Property Young Scholar Award.

Katarina is also an expert adviser in data governance at the Infectious Diseases Data Observatory, based in the Centre for Tropical Medicine and Global Health at the University of Oxford, focusing on enabling data sharing to further medical research on infectious diseases and emerging infections.

Dr. Gabriela Lenarczyk is a Postdoctoral Fellow at the International Center for Bioscience Innovation Law (Inter-CeBIL) at the University of Copenhagen, where she specializes in pharmaceutical intellectual property law and regulatory frameworks. Her research examines how emerging technologies, particularly AI and quantum computing, are transforming drug discovery and development, necessitating a fundamental rethinking of current IP and regulatory paradigms.

She holds a doctoral degree with summa cum laude distinction from the Polish Academy of Sciences, following studies at Jagiellonian University and the London School of Economics. As a Thomas Edison Innovation Law and Policy Fellow at George Mason University, her research focuses on the limits of confidentiality of clinical trial data protection and the emerging European Health Data Space regulation.

With experience as both a scholar and practicing attorney-at-law in medical and clinical negligence claims, her work explores the critical intersection of intellectual property rights, public health, and open innovation, with an emphasis on improving access to medicines and environmental sustainability through private ordering mechanisms.

Seminar by Dr Andrea Zappalaglio and Dr Jocelyn Bosse

(Week 7)
Date: 25 November 2024 (Monday)

Time: 03.00 pm -4.30 pm
Venue: Seminar Room D, Faculty of Law Building, St. Cross Road
Light Refreshments will be provided.

Title: Passing off the principles of British Passing Off to improve GI protection?

Abstract:
The paper begins by addressing the criticisms raised by leading European and non-European scholars regarding the level of protection currently granted to registered Geographical Indications in the EU context, which has become exceedingly broad, particularly following the latest decisions of the Court of Justice of the EU. It then argues, based on an analysis of relevant case law and some previously unpublished empirical findings, that this problematic approach could be refined by rediscovering a more tangible, facts- and consequences-based approach, an example of which is provided by the realm of unfair competition by misrepresentation and, in the British context, Extended Passing Off.

Biography:
Dr Andrea Zappalaglio is a Lecturer in IP Law at the University of Sheffield and incoming Associate Professor in IP Law at the University of Leeds. His current research focuses on Geographical Indications, Quality Labels, and the History of European IP Law. He regularly collaborates with various public and private stakeholders, including the European Commission and the United Nations Food and Agriculture Organisation (FAO). His scholarship is award-winning and has been featured in all major EU and UK Intellectual Property journals.

Prior to joining the University of Sheffield, Dr Zappalaglio worked as a Senior Research Fellow at the Max Planck Institute for Innovation and Competition (Munich, Germany) where he led the Research Team on the Law of Geographical Indications. He holds a DPhil (PhD) from the University of Oxford, Somerville College.

Dr Jocelyn Bosse is a Lecturer in Law at Queen's University Belfast. Her research examines the relationships between intellectual property rights and food, biodiversity, Indigenous rights, and the circulation of plants and knowledge. Her current research focuses on the history and politics of the US Plant Patent Act of 1930, the naming of plant varieties, and the protection of geographical indications. She undertook her PhD at the University of Queensland, Australia. Her dissertation was awarded the 2023 Dean's Award for Outstanding HDR Theses, and was shortlisted for the 2024 Australian Legal Research Awards (ALRA) PhD Award.