

# Intellectual Property Center and Clinic Are Added

by Timothy J. Fox

**A** new center and legal clinic planned for 2005 will take intellectual property to the next level at the School of Law.

Funded significantly by a grant from the Ewing Marion Kauffman Foundation, the Center for Research on Innovation and Entrepreneurship and the Intellectual Property & Business Formation Legal Clinic will provide a theoretical and practical foundation for the advancement of intellectual property law, rights, and issues at the School and in the community.

“Given the dynamic biotech industry in St. Louis and the emphasis of Washington University on such projects as genetic sequencing and bioengineering, our focus on intellectual property is clearly in the best interest of the School of Law,” says Joel Seligman, dean and the Ethan A.H. Shepley University Professor.

Intellectual property includes inventions, artwork, literary productions, trade secrets, manufacturing processes, and other “creations of the mind” that could be appropriated—intentionally or not—for financial gain or competitive advantage.

Charles R. McManis, the Thomas and Karole Green Professor of Law, has spent the past two decades furthering the development of the School of Law’s intellectual property curriculum. “The explosion of biotechnology and information technology has made intellectual property an important growing field that will become even



**Charles McManis (right), discussing intellectual property issues with Jeremy Zangara, JD '06, is leading the School's efforts to expand the IP program.**

more so over time,” McManis says. “With the Human Genome Project at our School of Medicine and with the presence of leading research institutions—like the Missouri Botanical Garden and the Donald Danforth Plant Science Center—nearby, Washington University is well positioned to take the lead.”

About 15 years ago, McManis started building a practical skills program, team-taught by lawyers, to offer introductory and advanced intellectual property courses, especially courses addressing the international aspects of intellectual property law. Seligman later lent his support by committing to more intellectual property faculty:

Associate Professor F. Scott Kieff, an expert in patent law, joined Washington University four years ago, and a number of adjuncts now teach in this area.

In 2001 McManis led the School’s creation of the LLM degree program in intellectual property and technology law—one of only a half-dozen such programs in the nation. About half of the program’s students are international students, while the other half are divided among practicing attorneys, recent graduates, and current law students.

McManis calls the new Center for Research on Innovation and Entrepreneurship “the third leg” of the School’s academic centers committed

to cutting-edge legal issues. Like the Whitney R. Harris Institute for Global Legal Studies, launched in 2000, and the Center for Interdisciplinary Studies, inaugurated in 2001, the new center will take an interdisciplinary approach to hosting conferences, conducting symposia, and sponsoring research. In particular, the center will direct its efforts toward a compelling area of intellectual property law: the intersection of innovation and entrepreneurship.

"The Kauffman Foundation is specifically interested in entrepreneurship, but, from a legal point of view, entrepreneurship largely overlaps with innovation," McManis says. "Innovation is the heartbeat of entrepreneurship."

**H**owever, not all potential innovators have access to the legal counsel necessary to protect their innovations. Calling this an "impediment to innovation," McManis cites this reality as one of the driving forces behind the Intellectual Property & Business Formation Legal Clinic.

"The clinic will serve the classic objectives of a legal clinic, which are to provide an education for students and a public service for people who would not otherwise have access to counsel," he explains. "It will also provide a clinical research opportunity to see what impact the availability of legal services has on facilitating innovation."

For McManis, an area that best illustrates the complex interplay of intellectual property, entrepreneurship, innovation, and access to legal services is that of "traditional knowledge"—the often centuries-old bodies of information held by indigenous peoples around the world. "Most of the world's biodiversity and raw materials come from the developing world, and the people who live there have a tremendous amount of knowl-

edge," he says. "How do we ensure that those knowledge-holders are recognized for their contributions?"

In May 2004 one of McManis' students, Edward Kim, went to South Africa to explore that question. His task: to draft a document that specifies both how intellectual property gathered in the country should be shared among three collaborating research institutions and how the rights of indigenous peoples—the knowledge-holders—will be protected.

The three collaborators in Kim's project—the Missouri Botanical Garden, the University of Missouri, and the University of the Western Cape in South Africa—had received a two-year planning grant from the National Institutes of Health to set up the International Center for Indigenous Phytotherapy Studies. This center is researching South African plants thought to have medicinal value.

"To get a full research grant, the collaborators had to document how they would share their intellectual property and address the rights of indigenous people," says Kim, a third-

year law student from New Jersey who earned his undergraduate degree in biology from the University of Chicago. "It's exciting because South Africa is drafting new legislation for protecting the intellectual property rights of traditional knowledge. This is new territory for the collaborators and for the South African people."

Kim's project is similar to the work the clinic will perform for the community and other parts of the University.

McManis notes, however, that the center and the clinic will not be exclusively focused on biotechnology. "To appeal to the nonpatent lawyer who's interested in intellectual property law, we also plan to develop a program on the transactional aspects of intellectual property law. It's in the details involving intellectual property that the rubber hits the road—the acquisition of rights, the enforcement of rights, and the licensing process.

"Also, digital technology—which is everywhere—will be as much of a focus as biotechnology," McManis continues. "Technologies are not airtight containers."

**I**n five to 10 years McManis envisions the School offering more specialized training in providing legal advice to start-up companies and sponsoring policy debates, especially at the international level, about the use of intellectual property policy to promote economic development.

Seligman says the School's new initiatives in intellectual property are bolstering an already strong area of legal specialty: "When the entire intellectual property program is operational with full faculty strength, the Washington University School of Law will be in the vanguard of this emerging area of the law." ♦



Mary Burkus

**Scott Kieff brings his expertise to the School's IP program.**