A new graduate program in intellectual property and technology law—one of only a handful in the United States—debuted this fall at Washington University School of Law. Now the University leads not only in fostering the growth of intellectual property, such as through the Human Genome Project and the new biomedical engineering program, but also in supplying the legal talent to define and protect it.

In addition to placing the School of Law at the cutting edge of one of the most exciting areas in American jurisprudence, this program gives the School a competitive edge in attracting an increasingly diverse array of students, including those with scientific backgrounds. As the only intellectual property and technology program offering this LLM degree in this region, it also plays an important supporting role in a thriving local biotech industry initiated by Monsanto, in biodiversity research at the Missouri Botanical Garden, and in plant research at the Donald Danforth Plant Science Center.

“The biotech revolution in this country and St. Louis’s role as one of the centers of gravity make this program an extremely important one for the community and the state of Missouri,” says Joel Seligman, dean and the Ethan A.H. Shepley University Professor. “When the faculty sat down in 1999 to devise a strategic plan for the future of the School of Law, intellectual property was the most logical choice for expansion.”

The results of a survey the law school sent out to members of the Bar Association of Metropolitan St. Louis shortly after the faculty identified intellectual property as a high-growth area validated the School’s logic.
In the space of three weeks, we received about 50 responses,” says Charles R. McManis, professor of law and director of the new intellectual property and technology law program. “Some of the respondents wanted to enroll in the program right away—even though it wasn’t offered at the time.” And three attorneys—a general practice attorney at a mid-size law firm, a prominent litigator, and a senior research technician with a law degree who is seeking more specialized training in intellectual property—signed up for courses a semester before the official start of the program, McManis reports.

The intense interest among attorneys can be attributed to the way that intellectual property and technology issues are increasingly transforming many other areas of law. “Intellectual property is a subject that spills out of its boundaries,” says Dorsey D. Ellis, Jr., the William R. Orthwein Distinguished Professor of Law and chair of the new program’s advisory board. “I can’t teach an antitrust course anymore without placing substantial emphasis on intellectual property, where the main issue is often whether a company’s actions constitute a permissible exercise of intellectual property rights.”

Intellectual property issues also crop up in mergers and acquisitions because a company’s most important assets often are its rights to intellectual property. And the global economy is thrusting intellectual property and technology issues into the international arena. A prime example is the dispute that brewed between American drug companies and countries like South Africa over the sale and distribution of AIDS medicine illegally obtained by the patenting of drugs without the inventor’s permission.

“Each country has different laws, rules, and regulations on intellectual property,” Ellis says, “so there is a need for attorneys who understand both international law and intellectual property law.”

To help meet this need, the School of Law added a second full-time faculty member, F. Scott Kieff (see page 3), to its new program this fall. A former visiting professor at the University of Chicago, Kieff has taught patent law, intellectual property law, and contract law. He co-authored Principles of Patent Law, a casebook and treatise. At Washington University, Kieff is focusing on intellectual property and technology law, but also teaching contracts, unfair competition, antitrust, complex litigation, and the allocation of decision-making ability and authority in disputes involving technological facts.

The new master’s degree program, granted American Bar Association-acquiescence in February 2001, is open to full- and part-time students who have a law degree from an accredited law school in the United States or its equivalent from a foreign institution of higher education. Introductory and advanced courses are offered in trademark and unfair competition law, copyrights and related rights, patent and trade secret law, and cyberspace law. Teams of experienced intellectual property lawyers teach practice-oriented courses like intellectual property litigation, advanced patent drafting, and high-technology license drafting. In addition, seminars are offered on such diverse topics as biotechnology law, international and comparative competition law, international investment law, and the Human Genome Project and the law. Students must complete 24 credit hours of courses from the curriculum, including at least one seminar that requires a research paper.
Even though a law degree is a prerequisite for admission, the program is not limited to licensed patent attorneys. “Any lawyer can do trademark or copyright law, any lawyer can litigate a patent case, and any lawyer can be involved in transactional property work,” McManis explains.

While students who have not yet obtained their JD cannot receive the master’s degree, they can take many of the courses offered through the program. That feature, says Kenton Fedde, JD ’01, a patent scientist at Pharmacia, “will be instrumental in attracting scientists to the law school who are interested in combining their science background with a legal degree.”

Fedde is one such scientist-turned-attorney. After receiving his doctorate in biochemistry, genetics, and molecular biology from the University of Chicago’s Pritzker School of Medicine, he joined the Washington University School of Medicine as a research faculty member. During his 15-year tenure at the medical school, Fedde says he witnessed firsthand “a variety of biotech start-up companies that combined law, science, and vision.” He believes the School of Law’s new program in intellectual property and technology law will perform a vital service to the St. Louis area by providing “much-needed IP skills.”

Another booster of the program and a member of the program’s advisory board is Brian Cunningham, JD ’70. He has built his career working for high-tech companies where intellectual property issues are a central concern. He is now senior vice president, chief operating officer, and chief financial officer of San Francisco-based Rigel Pharmaceuticals Inc.

Cunningham recalls a time when, as general counsel of Genentech, he was invited to speak to law students at Yale University. “I didn’t understand what credibility I had to talk to Yale Law School,” he says, “But during the question-and-answer session, it became clear. Those students wanted to know how to shape their own career planning so they could get my job. At the time, I told them I didn’t plan to become the general counsel of a biotech company—it was just a matter of luck.” Now, he says, “If I had planned it, I would have participated in a graduate intellectual property and technology law program like the one being offered at Washington University.”

A conference on “Intellectual Property, Digital Technology, & Electronic Commerce” helped launch the School of Law’s new graduate program in intellectual property and technology law. Held April 6–7, 2001, the conference included presentations on digital copyright and database protection; the Uniform Computer Information Transactions Act and electronic commerce; and business method patents and bioinformatics.

Keynote speakers were Marybeth Peters, United States register of copyrights; Mozelle Thompson, commissioner of the Federal Trade Commission; and Stephen Kunin, deputy commissioner for patent examination policy at the U.S. Patent and Trademark Office.

Presenters included Craig Nard, Marquette University; F.W. Grosheide, University of Utrecht; David McGowan, University of Minnesota; Maureen O’Rourke, Boston University; Jean Braucher, University of Arizona; Raymond Nimmer, University of Houston; Michael Meuer, Boston University; Lawrence Sung, Lewis & Clark College; Keith Maskus, University of Colorado; and Catherine Mann, Institute for International Economics.

Among the commentators were Colette Hogan, Postnet.com; Ruth Okediji, University of Oklahoma; Raymond T. Wagner, Enterprise Rent-A-Car; Craig S. Ingraham, MasterCard International, Inc.; Steven M. Gallant, Savvis Communications; F. Scott Kieff, University of Chicago and Washington University beginning fall 2001; Greg Sullivan, G.A. Sullivan; Frank R. Agovino, Senniger Powers Leavitt & Roedel; Arti Rai, University of San Diego and visiting professor at Washington University; and Richard E. Haferkamp, Howell & Haferkamp LC.

Mark Sableman, Charles H. Fendell, and Grant D. Kang, all with Thompson Coburn LLP, served as the conference moderators.


Sponsoring the conference were Washington University School of Law and the Technology and the Practice of Law Committee of the Bar Association of Metropolitan St. Louis, in cooperation with the St. Louis Technology Gateway Alliance and Thompson Coburn LLP.