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DR ANA ALBA BETANCOURT, DR ENRICO BONADIO AND DR LUKE MCDONAGH

Social Innovation and University Intellectual Property: Insights from the UK and Mexico 293
University intellectual property (IP) policies, and the accompanying strategies for incubation of IP via licensing and spin-outs, have not received much analysis from academic lawyers. Moreover, despite several successful examples of universities in the UK generating income from IP, not much is known about how transferable the UK model is when considered in the light of a middle-income developing economy such as Mexico. In this article we analyse critically some of the key tenets of IP policies at universities in the UK to identify what the key legal principles underpinning university innovation and commercialisation are. We consider the potential application of these principles in Mexico, where so far only a limited number of universities have developed IP policies and strategies in line with the incubator model. We explain how universities in Mexico could implement these research findings in their own IP policies. We comment that the mere provision of an IP policy is not a panacea—on its own it is insufficient for ensuring technology transfer and it may even encourage unnecessary patenting. Further investment in infrastructure and in establishing a culture of incubation and entrepreneurship is essential.

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In China, the basic rules governing the attribution of employee inventions are defined by the patent law, promulgated in 1984, during the period when the country was still implementing a planned economy policy. Under the influence of collectivism, the interests of employers are protected much more than the interests of salaried inventors. After more than 30 years, this system can no longer adapt to the profound changes that have occurred in China. A reform of the attribution rule of employee inventions is thus indispensable.

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Protection of Unpublished Works after Death: An Analysis of Developments in Australia and the United States 312

The publication of someone's artistic works after their death could be subject to various laws such as copyright, privacy and even property laws. This article aims to discuss the possibility of publishing and displaying people's possessions after their death, particularly if those works have literary, dramatic, musical or artistic features and the person who owned or created them has not first published them. There are occasions when an author or artist becomes famous after their work is published post mortem by a third person who may or may not be the legal executor. Considering recent amendments to Australia's Copyright Law, it is essential to examine whether these address all issues concerning this subject. The United States has a well-developed law concerning unpublished works as well as a number of relevant cases and arguments, so this article will refer to approaches which have been taken by that country.

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On 7 June 2019, the Grand Panel of the Intellectual Property High Court of Japan (IPHCJ) issued a landmark pro-patentee decision that provided greater clarity and flexibility on how Japanese patent infringement courts will calculate patent infringement damages on the basis of "infringer's profits" and "reasonable royalty" under Japan's Patent Law: *NeoChemir Inc v Medion Research Laboratories Inc*, Case No. Heisei 30 (Ne) 10063 (7 June 2019). This is a welcome pro-patentee decision because the IPHCJ set a flexible and pro-patentee approach in determining patent infringement damages which may result in higher damage awards, assuming the criteria is satisfied. The prospect of Japanese courts being able to award higher patent infringement damage awards in the future using the calculation rules outlined in this milestone decision will contribute to the greater protection of patent rights in Japan.

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In *Sky v Skykick*, the CJEU held that a registered trade mark cannot be declared wholly or partly invalid as a result of a lack of clarity and precision of the terms used to designate the goods and services covered by that registration. Further, while invalidity on the ground of bad faith may be triggered where an applicant registers a mark without any intention to use it in relation to specified goods and services, bad faith will only be established in exceptional circumstances. This outcome is very helpful to existing trade mark proprietors, and favours the existing status quo of the trade mark system.

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