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Centre for
Commercial
Law Studies

Alumni **Bulletin** Fourth Edition – Spring 2012

Welcome from the Director

Dear CCLS Alumni

I would like to start with thanking all our contributors to this 4th issue. We are always pleased to hear about the achievements of our alumni students, please keep the news coming.

One of the exciting new developments at CCLS is the launch of our new LLM programme in Paris from January 2013. This innovative postgraduate programme will offer students the opportunity to develop academic and professional expertise in specialised areas of commercial law, including international dispute resolution, banking and finance, intellectual property, and international business law. The LLM in Paris will be formally launched in June with a reception at the University of London Institute in Paris, that is hosting our LLM, at rue de Constantine, a fantastic location adjacent to the Esplanade des Invalides.

And together with the School of Economics and Finance we are starting a new LLM in Law and Economics from September 2012, building on the success of our MSc in Banking and Finance. The approach will be genuinely interdisciplinary bringing together lawyers and economists examining how

the two disciplines interact and influence the development and application of each other.

Finally, CCLS is launching a new LLM specialism in Insurance Law, led by Professor Philip Rawlings who is building a very strong team of academics and professionals that will not only teach but also shape the development of Insurance law in the years to come.

There are plenty of events happening at CCLS over the spring. Please check our Events web page for more information.

For example, Dr Rodrigo Olivares-Caminal and our MSc Banking & Finance students are bringing together a most topical event on the Eurozone crisis for the 21st of June. On the 5th July Dr Andromachi Georgosouli invites some of the leading figures in Banking and Finance to a Roundtable that is considering, but is also looking beyond, current developments. This will be the first of a series of Roundtables offered by CCLS; Arbitration and Trade Mark Law will follow later in the year.

Our current PhD students are also very active: the School of Law 2012 PhD Conference on the 22nd of May opens up our research community to the world



and brings together researchers from throughout and beyond the UK for a series of challenging and thought provoking sessions.

In its current 4th issue the CCLS Bulletin has exciting articles on Tax law, Information Security, Islamic Finance Law, Gas Markets, and a special feature on some of our Trade Mark Law graduates. Enjoy!

With best wishes,

Professor Spyros M Maniatis
Director, Centre for Commercial Law Studies
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Please feel free to contact us if you have any comments or suggestions; if you would like to write an article for us or make another contribution.

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Current Trends and Developments in International Taxation: Central and Eastern Europe (CEE), the Romanian case

Arturo Trevino Villarreal, Manager – International Tax Services, PriceWaterhouseCoopers Romania. LLM, Class of 2008

The domestic corporate income tax system in Romania is still developing. Its main features include a flat profit tax rate of 16%, with the possibility to apply a 3% rate for qualifying micro-companies; domestic standard WHT rate of 16%; and a tax loss carry-forward mechanism (seven – year period for losses incurred as of 31 December 2009 and onwards).

There are Thin Cap, Safe Harbour and Transfer Pricing rules in place already; however, there is no special tax regime for real estate rich companies, and CFC rules yet.

More recently, specific provisions were introduced for financial institutions that apply IFRS (effective as of 1 January 2012). Additionally, late last year a new institution was introduced in the Civil Code regarding administration of patrimony (the so-called Fiducia Agreements). Nevertheless, the provisions addressing the corporate and individual income tax treatment of this new regulated institution are incomplete, and require further revision and clarification.

Regarding corporate structures for inbound investments, the preferred jurisdictions for the residence of the foreign parent (holding) company are still the Netherlands, Cyprus, and Spain. However, other locations such as Luxembourg, Belgium, Malta, and Switzerland are also becoming popular when implementing such investments.

Even if Romania is a non-OECD economy, it has concluded around 82 Double Taxation Conventions with other States, which normally follow the OECD Model Double Taxation Convention. Moreover, the Romanian tax authorities and courts usually take into account the OECD commentaries and reports to interpret tax treaties in force. International tax case law can also be used to support taxpayer's position.

The local real estate market is down; by contrast, projects in the field of alternative energy are booming: solar and wind farms, photovoltaic, hydro power plants, biomass, etc. During the last year, acquisition deals in such field have multiplied, and financial institutions in the country as well as abroad show increasing appetite to finance these types of projects. Particularly, wind farms should be carefully assessed taking into account the following aspects as minimum parameters: authorisations and permits required for the project (development and operation); obtaining and trading green certificates; location of foreign parent company for domestic SPV; WHT on dividend and interest flows as well as capital gains upon disinvestment; purchase price allocation and revenue recognition from sale of electricity; VAT and customs duties (for goods coming from outside the EU); property taxes (land tax and building tax) as well as taxes applicable to construction works; asset depreciation methods for tax and accounting purposes; activation under local GAAP of project development costs; accounting treatment of borrowing costs, etc.

In theory, a Romanian tax treaty structure is meant to be a potential alternative to equity funds' US inbound investments, taking into account the likelihood of a renegotiation of the US-Poland tax treaty (which dates back to 1974). Nevertheless, in practice, the current Romanian tax ruling system may prove to be time-consuming and



burdensome, and this factor may threaten the implementation of such alternative.

The long-awaited domestic participation exemption regime is still on the legislative agenda. If properly designed and approved, along with other measures and provisions, it will surely provide a highly needed fresh stimulus to the local business environment. Needless to say, the active participation and involvement of the tax authorities is of paramount importance to crystallise this.

I am grateful to Dr Tom O'Shea for giving me the opportunity to present this contribution to the Alumni Bulletin.

The Changing Security Landscape

Ilias Chantzos, Senior Director EMEA & APJ, Government Affairs, Symantec Corporation. LLM in Computer and Communication Law, Class of 1998



When I started studying for my LLM several years ago, information security had been a topic of engineers for many years with limited interest from both a legal and a public policy perspective. In public policy terms information security was a “good to have” but rarely a primary objective. From a legal standpoint one would often hear about information security not as a proactive step but rather reactively, in the form of legislation dealing with cybercrime.

Over the years I had the pleasure of watching the evolution of this topic. At first it was the Budapest Convention addressing cybercrime holistically. Afterwards it was the Framework Decision on Attacks Against Information Systems putting cybersecurity firmly in the domain of European law. Then the creation of ENISA, a European agency dedicated as a center of excellence on matters related to cybersecurity. More recently the updated EU telecoms framework contained specific resilience obligations for electronic communications service providers, while the ePrivacy Directive introduced the first system of pan-European breach notification regime.

Currently the proposed new EU data protection regulation contains a number of security provisions, while there is a new Directive on attacks against information systems under discussion and we are also expecting a European Cybersecurity Strategy sometime before the summer. The hints we get on the European Cloud Strategy suggest that security will also be very high on the agenda.

So what has changed over the course of 10 years that security has suddenly been catapulted to the forefront of the political and legislative discussions?

The cyberattacks on Estonia back in 2007 showed the crippling effects that a major cybersecurity incident can have in a country's infrastructure and operations. Incidents like Hydraq, Ghostnet, Nitro and several others have showed the easiness through which confidential information can be stolen online. Major security breaches to well known brands across the world show us how easy it can become to compromise personal data and commit identity theft or other forms of fraud. Finally, attacks like Stuxnet show us the evolution of the cyberthreat towards physical attacks and a glimpse to a not so bright potential future whereby cyberattacks are used as a military weapon. It is not surprising therefore that organisations like NATO treat cyber-issues as a tier 1 threat or that UK in its national security strategy treats cyberthreats as a top strategic priority.

What does all this mean from a legal standpoint? One can think of many things really. Something that has become so important it has to have rules around it. These rules will not only assign rights, regulate market actors, address individual behavior, or contractual arrangements but because of the cross-border nature of the Internet, will also regulate the behavior of States. The fact of the matter is that the topic can no longer be treated as merely technical or “good to have”. Already there are discussions on acceptable norms of behavior between States and some of them push for international agreements on this topic. The recognition of the value of personal data has led to more stringent data governance rules while the dependency on ICT is driving discussions around the need to regulate new forms of technologies such as “cloud computing” and “smart grid” because of fears for the protection of the critical national infrastructure.

The reality is that the rules by themselves will not protect data, infrastructure or people.

Security is a problem of people, process and technology. Rules will drive behavior and compel corporations to act in a certain way, therefore, affecting both process and people. At the heart of the problem, however, is the fact that a significant part of it will remain technology-related, which as experience shows, moves a lot faster than legislation.

For most policy and regulatory issues that are technology driven, a nexus between lawyers and engineers, technology, policy and law makers is required to make things work and get into reasonable and pragmatic results. Security could not be an exemption.



The Emergence of Islamic Finance in France

Amel Makhlouf, PhD Candidate & Lecturer in Private Law, Panthéon-Sorbonne University (Paris), Legal consultant, Shariah Board CIFIE (Paris), Research Assistant, SOAS (London). LLM in Banking and Finance, Class of 2008



Considered to be one of the fastest growing segments of the financial industry, Islamic finance is increasingly viewed as a key component of the financial services sector².

This is in part due

to the fact that the current global financial crisis has exposed the limits of capitalism³ and has forced a reconsideration of the fundamental tenets of the global economic system⁴. Massive speculation, intense competition, excessive risk-taking as well as inadequate government regulation have all been contributing factors, and the resulting crisis of confidence has undermined the ability of political and economic leaders to offer ideal solutions for recovery. This context has led to an increased public awareness regarding the need to provide a more ethical focus to conventional economic models⁵.

This redesign of the global economy implies the new challenge of promoting an ethical solution by means of socially responsible finance⁶. Regarding the drastic consequences induced by the worldwide financial crisis, most notably job losses and social hardship, Islamic finance appears as a solution to modify the current and dominant financial way of thinking. This explains the exponential growth of the

Shariah-compliant finance sector in both Muslim and non-Muslim communities⁷.

However, Islamic finance is not really a "new industry", as it has existed in the early years of Islam since the Holy Quran was revealed to the Prophet Muhammad by the angel Gabriel. Mecca was at that time a major centre of commercial exchange, thereby underlining the importance of trade in Islam and its positive view of commerce, including the use of borrowed capital.

The French interest for this growing industry certainly started in 2008 when the Minister of Economy, Finance and Industry - Christine Lagarde – officially announced her support to introduce Islamic finance in France. (Christine Lagarde was a French Minister of Economy, Finance and Industry, who succeeded Dominique Strauss-Khan as managing director of the International Monetary Fund. Her speech was given at the opening of the Second French Forum on Islamic Finance on 26 November 2008). Further progress was encouraged by the Islamic finance commission of Paris Europlace which has made a series of tax, legal and regulatory adjustments into the French financial system to integrate Islamic finance transactions (Paris Europlace is the Paris financial markets organisation. Its Islamic finance commission is divided into several committees, such as the Islamic finance law committee). The next major step took place in November 2011 when the AAOIFI (Accounting and Auditing

Organisation for Islamic Financial Institutions) main 20 Shariah standards were made available in French (These standards are "key references used by most Islamic banks and Islamic finance professionals globally". See the press release of Paris Europlace on 22 November 2011). This work has been carried out by the Paris Europlace's Islamic Finance Law Committee, and duly supervised by two French Shariah boards: COFFIS (Conseil Français de la Finance Islamique, French Council of Islamic Finance) and CIFIE (Comité Indépendant de la Finance Islamique en Europe, European Independent Committee of Islamic Finance). All these organisations intend to foster and promote the development of Islamic finance in France by finding a possible combination between French and Shariah requirements as well as suggesting a comprehensive transcription of Shariah law concepts into French law concepts. Although several modes of financing are currently available on the Islamic finance market – such as Ijara (lease agreement), Mudaraba (partnership contract), Musharaka (also based on a partnership process) and Takaful⁸ – Murabaha (cost-plus sale contract) remain the most common transactions used by Islamic financial institutions worldwide. In this respect, it is important to assess whether this intensive use of Murabaha can match with the moral and ethical principles required by the Islamic finance theory. Consequently, the AAOIFI Murabaha

²See BMB Islamic, Global Islamic Finance Report - GIFR 2010, Section I - Introduction, Chapter I: The Islamic Banking and Finance Industry.

³See Charles Tripp, *Islam and the moral economy: the challenge of capitalism*, Cambridge: Cambridge University Press, 2006; Bryan S. Turner, *Weber and Islam: a critical study*, London: Routledge and Kegan Paul, 1974; Maxime Rodinson, *Islam and Capitalism*, Paris: Le Seuil, 1966.

⁴See Elyès Jouini and Olivier Pastré, *La finance islamique - Une solution à la crise?*, Paris: Economica, 2009; Tarik

Benarai, *Comprendre la Finance Islamique - Principes, Pratiques et Ethique*, Paris: Les 4 sources, 2010.

⁵See Isabelle Chapellière, *Ethique et Finance en Islam*, Paris: Koutoubia, 2009.

⁶See Timur Kuran, "On the Notion of Economic Justice in Contemporary Islamic Thought", *International Journal of Middle East Studies*, Vol. 21, No. 2 (May, 1989), pp. 171-191.

⁷See Ibrahim Warde, *Islamic Finance in the Global Economy*, Edinburgh, UK: Edinburgh University Press, 2nd

revised edition 2008; Clement M. Henry and Rodney Wilson, *The Politics of Islamic Finance*, Edinburgh, UK: Edinburgh University Press, 2004.

⁸The Arabic word for solidarity or mutuality. The Council of the Islamic Fiqh Academy held in Jeddah on December 1985 decided that: "1) The commercial insurance contract with a fixed periodical premium, which is commonly used by commercial insurance companies, is a contract which contains major elements of deceit, which void the contract and, therefore, is prohibited (haram) according to Shari'a;

Shariah standard will be valuable to integrate this cost-plus financing into the French legal system.

Besides, it should be noted that the growing development of Islamic banking and finance does not coincide with the emergence of Takaful⁹. One wonders if this gap is coherent with the need for Islamic banks to be insured in a Shariah-compliant way since the Islamic insurance sector is apparently less well developed than the broader Islamic finance one.

Yet, the establishment of Takaful undertakings represents a great opportunity for France. In fact, the first Islamic life insurance contract has been distributed by Allianz Life Luxembourg on the Reunion island in 2009. It has been certified by the Reunion Islamic Center and ACERFI (Audit, Conformité Et Recherche en Finance Islamique), the first French Shariah board. The next major step occurred last March 2012 when the French Consulting and Investment Company & Associates officially announced the future distribution of the first Islamic life insurance in Metropolitan France¹⁰. The Islamic products will be certified by a French Shariah board, the European Independent Committee of Islamic Finance, in the following months.

These innovations reveal the huge potential for Islamic finance in France and remain positive for the upcoming years.

2) The alternative contract, which conforms, to the principles of Islamic dealings is the contract of cooperative insurance, which is founded on the basis of charity and cooperation. Similarly, is the case of reinsurance based on the principle of cooperative insurance; 3) The Academy invites the Islamic countries to work on establishing cooperative insurance institutions and cooperative entities for the reinsurance, in order to liberate the Islamic economy from exploitation and put an end to the violation of the system which Allah has chosen for this Ummah".

See the Council of the Islamic Fiqh Academy, Resolution n° 9 (9/2) concerning Insurance and Reinsurance, in Resolutions and Recommendations of the Council of the Islamic Fiqh Academy 1985-2000, <<http://zulkiflihasan.files.wordpress.com/2009/12/majma-fiqh.pdf>> accessed 14 March 2012.

⁹See Amel Makhlouf and Hisham Bouhouita Guermech, "Conventional vs. Islamic Insurance", Revue droit et affaires (9th edition, 2011).

¹⁰Marc Vignaud and Aziz Zemouri, "Après la viande, l'assurance-vie halal" (Le point, 7 March 2012) <http://www.lepoint.fr/economie/apres-la-viande-l-assurance-vie-halal-07-03-2012-1438799_28.php> accessed 14 March 2012.

Capacity Allocation and the New Role of Transport Capacity Platforms in the Gas Market

Dr Goetz Lincke, Managing Director TRAC-X Transport Capacity Exchange Germany. PhD Class of 2006.

There is a saying within the European energy markets: “Gas follows the development of the electricity market”.

To some extent this saying also holds true for the issue of allocation and development of transportation capacity platforms for gas and electricity. One example of such a transport capacity platform, TRAC-X started its operations as early as 2005 with a secondary capacity platform, which for the first time enabled shippers to trade their unneeded capacity. However, these developments only had minor impacts on the European gas markets, not fundamentally changing the allocation of transport capacities from Transmission System Operators (TSO) to shippers. It was still possible to book long-term transport capacity over substantial periods of time. Overall liquidity and trading activities did not increase despite the existence of capacity platforms.

In contrast to the gas market, regional power market capacity platform initiatives such as CASC-EU (“Capacity Allocating Service Company”) had more far reaching impacts on the electricity market when they were first initiated. The initiatives already had a European (regional) dimension which helped to significantly improve transport allocation mechanisms within the group of involved TSOs. It was also driven by used IT functionalities. These movements were also supported by the fact that already in the early 2000s, law markets had ruled that particularly long-term cross border transport contracts that were signed before the market opening should no longer be prioritized when allocating transport rights. The regulations resulted in a major trading boost and fundamentally changed the power market.

These developments in the power market are fundamentally changing the gas transport sector, triggered by the so-called “3rd EU energy package” process. In particular, ACER’s “Framework Guidelines for Capacity Allocation Mechanisms” (CAM) requires that European TSOs (who currently collectively work on the future legal framework for capacity allocation in the context of developing

a Network Code CAM) eventually establish one central capacity transport platform for primary and secondary capacity. This will significantly change how capacity will be allocated to shippers in the future.

Some say that until these requirements have been implemented nothing is really going to change. However, primary “capacity platforms” are already in place on the continental gas markets. Due to national regulations (German network code for gas) and in anticipation of rules being on the way in Europe, TRAC-X primary was appointed by 12 transmission system operators in 2010 to create and operate a platform for marketing primary transport capacities in Germany. When TRAC-X primary went live in August 2011, it replaced other online booking systems and for the first time gave shippers a single platform through which they could acquire transport capacity of all participating TSOs. Aiming to build an easy-to-use, highly available and automatized platform for all shippers, the participating TSOs developed a very flexible platform, easily adaptable to different backend systems. It also provided a set of standardized products which would fit with future European requirements. The latest drafts of ACER’s CAM prove the TSOs right. TRAC-X primary with its day-ahead, month-ahead, quarterly and yearly products already complies with the majority of requirements formulated in the regulator’s drafts.

Moreover, in order to automatize the platform for registered shipper and therefore to simplify capacity buying for registered shippers, an automatized web interface based on EFET-Net / Ponton was developed, through which shippers can automatically acquire auction information and place bids.

By integrating various TSOs on a single capacity platform TRAC-X both created a platform which complied with existing German regulation and provided a good example of how primary capacity trading can work on a European level. This was also recently acknowledged by platform users, such as the European Federation of Energy Traders (EFET).

Impacts on the future allocation of gas transport capacity and capacity platforms in Europe

The final implementation of Network Code CAM will have a significant impact on how transport capacity is allocated to shippers in the future:

- European-wide standardisation/harmonisation of transport procedures, soon preventing forever booking of transport capacity at entry and exit points, thus limiting potential contractual congestions.
- Increased role for short-term market, as capacity contracts/products will have to be offered next-day or the same day increasing liquidity.
- Greater transparency of how allocating capacity could send investment signals to the market.
- Greater interoperability between markets as so-called bundled products must be offered across markets.
- Shift from long-/mid-term to shorter term trading activities will impact how gas is traded in many European areas of the gas market.

The effects will also influence current and future transport capacity platforms, learning from the power market experience:

- The near future will likely see several capacity platform initiatives merge, since too costly to be maintained individually, and because there will be a mandatory requirement for national TSOs to integrate the regional markets.
- It is likely that the most flexible IT functionality will prevail, keeping operating costs down and ensuring market acceptance amongst shippers.

Cross-Border Bank Resolution: Will it Work?

Charles Randell, a partner at City law firm Slaughter and May, explains why he has become a part-time PhD student at Queen Mary, researching in the area of the resolution of cross-border banks.



During over 30 years at Slaughter and May, I have worked on a number of interesting and challenging assignments. However, by far the most fascinating of these came in the period between 2007 and 2009, when I led Slaughter and May's team advising the UK Treasury on a range of assignments arising from the global banking crisis, including Northern Rock, Bradford & Bingley, the Icelandic banks and the recapitalisations of RBS and Lloyds/HBOS.

Although the meltdown of the global financial system was ultimately avoided by massive government interventions around the world, this resulted in huge expense to the taxpayer. Governments, including in the UK, have taken or are taking action to ensure that enhanced legal powers (sometimes called "resolution powers") exist to restructure failing banks in the future. Without these resolution powers, the authorities can face a stark choice between bailing a bank out and allowing it to fall into ordinary corporate insolvency proceedings, which may result in severe disruption to the bank's customers and to the financial system.

However, the world's largest banking institutions consist of large and complex corporate groups operating across the globe. No one country can resolve these groups, and the task of developing the information, tools and institutions to resolve them in a co-ordinated manner across borders is still very

much unfinished business. For this reason, I decided to conduct research in the area of cross-border resolution of banks and asked Professor Rosa Maria Lastra at the Centre for Commercial Legal Studies, a world expert in this subject, to supervise my thesis.

The subject could hardly be more topical. Many banks in the Eurozone remain in a fragile condition. Western economies appear to be facing a future of low growth and continuing vulnerability to the policies of faster-growing emerging economies, which have until now funded the West's high debt burden. In an age of large international capital flows and global business it seems unlikely that we will be able to retreat into a world of smaller ring-fenced national banks.

Since the global financial crisis, international policymakers have focused their efforts on ensuring that individual countries put in place the necessary national powers to be able to resolve their own banks and to work together with other countries. Recent pronouncements by the two major policy-making bodies in this area, the Basel Committee on Banking Supervision and the Financial Stability Board, emphasise the importance of convergence in national resolution powers, the ability to recognise measures taken by other countries and the development of cooperative supervision and resolution practices through supervisory colleges of regulators and crisis management

groups. While these measures are steps in the right direction, the problem is that both empirical evidence and academic theory suggest that they will not produce cooperation in the future. The empirical evidence, particularly case studies from the financial crisis such as Lehman, the Icelandic banks and Fortis, suggests that when the going got tough, the authorities did not exchange information and co-operate as they had promised to do. The academic theory, including the work of game theorists, had indeed predicted that without sanctions for non-cooperation, a "prisoner's dilemma" would develop in these circumstances, leading individual countries to take actions which were not optimal for the general good.

This is, therefore, a very good time to engage in further study of these efforts by international policymakers and of what can be done to increase the prospects for more efficient outcomes. It is a vast subject, which provides opportunities to study parts of the legal systems of other countries as well as their political and administrative structures. It lends itself to both theoretical and empirical approaches. At this stage in my studies I am still grappling with the task of deciding which of these many and fascinating approaches to pursue and which I must jettison. But I am very much looking forward to the rest of my research.

Special Feature on Intellectual Property Law and Trade Marks



Stephan Hanne – Lawyer at OHIM's Cancellation / Invalidation Division, LLM in IP, Class of 2005

During my undergraduate legal studies, I entirely missed out on the fascinating world of IP. After discovering it in my professional career, I decided to hit the books again to grasp a better founded understanding of the IP legal system. The LL.M. course at QM was ideal, allowing me to choose from a variety of courses in international and comparative IP law. Studying at QM proved to be an invaluable experience, both professionally and personally. In particular, I was impressed by the mix of outstanding academics, passionate IP practitioners and post-doctoral fellows giving lectures which fostered a solid understanding of the various IP rights. My previous work experience also enabled me to put many legal issues into perspective and relate them to practice. The course confirmed that I had hit the right path and the LL.M. definitely enhanced my further career prospects. Following the LL.M., I continued my career as an IP in-house counsel at DaimlerChrysler AG. Currently, I am working in OHIM's Cancellation/Invalidity Division, dealing as an examiner both with Community trade marks and designs. Besides this, I represent the Office in litigation cases in front of the General Court and I have been appointed as a mediator in OHIM's (Office for Harmonisation in the Internal Market, Trade Marks and Designs) new mediation scheme.



Dimitris Botis, Head of the Litigation Service, International Cooperation & Legal Affairs Department, Office for Harmonisation in the Internal Market. LLM in Commercial and Corporate Law, Class of 1992

Looking back at the times I did my masters at Queen Mary (that was at the beginning of the 90's) I remember how different the IP landscape was. The 'first' TM Directive had just been adopted, the 'new' UK trade mark law (subsequently known as the 1994 Trade Marks Act) was still a white paper, and the Community Trade Marks Regulation did not exist yet. Even specialists in the area wondered how a truly 'European' approach to trade mark law would look like. Now, after almost fifteen years in the Office for Harmonisation in the Internal Market, Trade Marks and Designs (better known as 'OHIM'), I feel extremely lucky to be able to contribute, from the post of Head of the Litigation Service, to the fascinating process of presenting the Office's view to the Court of Justice in appeal cases, which set the foundations for shaping the current principles of European Trade Mark law. Now, every time I am offered the chance to visit my old college again, be it for a lecture, a conference or just to talk to dear friends, I am happy to see that the same inquisitive, critical and policy oriented approach to legal thinking I remember is still very much alive and the truly multicultural environment created by intelligent young people from all over the world helps creativity to flourish even further. Last but not least, I can't help rejoicing every time I meet old fellow-students, now respected professionals in the IP world, still showing the same passion and enthusiasm as in the good old times ...



Atif Bhatti, Hogan Lovells LLP Düsseldorf, LLM in Intellectual Property, Class of 2010

After having completed my LLM in Intellectual Property Law in 2011, I returned to Germany and joined Hogan Lovells LLP. Currently, I am working in the Düsseldorf office focusing on patent litigation. Before I came to Queen Mary, I qualified as a lawyer in Germany. Already during my studies in Germany I focused on Intellectual Property Law. However, I always wanted to deepen my knowledge in international intellectual property. At Queen Mary I found the right program. With the Queen Mary Intellectual Property Research Institute (QMIPRI) which is part of the CCLS, Queen Mary offers perfect conditions for an LLM in Intellectual Property. I found the amount of specialised courses in IP exceptionally attractive, especially compared to similar programs at other UK institutions. QMIPRI is one of the leading institutions in IP Law.

The LLM courses in Intellectual Property Law helped to broaden my knowledge of UK Intellectual Property Law. Moreover, the comparative courses gave me an overview of other legal jurisdictions e.g. the USA and the international context put the various Intellectual Property Laws in an international context.

Furthermore, I met very interesting and aspiring colleagues from different parts of the world with whom I am still in contact. All of these aspects provided me with the best preparation for my current job as a lawyer in patent law, especially as I am dealing with multi-jurisdictional infringement cases in my daily work.

Special Feature on Intellectual Property Law and Trade Marks



Viotina Liakatou, Associate, Edwards Wildman Palmer UK LLP, LLM in Commercial and Corporate Law, Class of 2005; currently PhD in Trade Marks.

Studying at CCLS has been a pivotal period in my career. I started by enrolling in the LLM in Intellectual Property Law, which helped me realise my interest in this field and, in particular, the area of Trade Mark Law. After obtaining the LLM degree, I continued my research pursuing a PhD in Trade Marks, which I still currently study part-time. In the excellent academic environment of CCLS, I have learned to think critically and developed strong research and analytical competencies. Under the appropriate supervision by CCLS Faculty and with abundant resources and assistance offered when necessary, I have had the opportunity to build solid academic knowledge and strong professional foundations. Even when it came to obtaining an additional professional qualification, this of a Trade Mark Attorney, CCLS was my unique choice because of the high quality preparation and courses offered towards the ITMA exams.

All these academic qualifications gained by my studies at CCLS also materialised into significant professional opportunities. Today, I am an Associate in the Intellectual Property department of Edwards Wildman Palmer UK LLP. The flexible part-time research programme allows me to study while working and enables me to apply new knowledge to my everyday legal practice. Studying at CCLS has definitely been an invaluable experience, both professionally and personally. I would strongly recommend studying at CCLS to everyone wishing to pursue a successful academic or legal career!



Olivier Vrins – Partner, ALTIUS law firm (Brussels), LLM in Intellectual Property, Class of 1999.

The years fly by at astonishing speed. The flower of my youth already appears to have withered... In contrast, my former lecturers at the CCLS seem not to have changed. For I keep bumping into

them since I graduated from the University of London! My LLM degree in IP Law not only allowed me to embark on the career of my dreams, it also opened the door of the world of publishing to me. With my degree in my pocket, it was not difficult for me to convince Oxford University Press to allow me and a friend and colleague of mine, only a few years after I graduated, to take the reins of a tome entitled *Enforcement of Intellectual Property Rights through Border Measures* (whose second edition will be published in the next few weeks). Professors Jeremy Phillips, Michael Blakeney and Alison Firth, from whom I learned so much during my LLM course, were each kind enough to write a chapter for the book. On occasion, they may invite me to speak at workshops, conferences and seminars, and to sit on a panel together with them. For this is the spirit of the CCLS: no lecturer is on a pedestal - all of the lecturing staff encourages discussions and exchanges of opinion in a frank and straightforward manner. Today I am lucky enough to work at a Brussels law firm with one of the largest specialist Intellectual Property teams in Belgium. My LLM from the CCLS probably explains why I publish more articles in English-language journals and books than in their Belgian equivalents. I am frequently in contact with the European Commission and the OHIM (notably as a member of the Legal Sub-Group of the European Observatory on IPR Infringements) and I was recently invited to address the European Parliament on ACTA. I don't think I can be accused of exaggerating when I say that I owe all of this, in large part, to my studies at the CCLS.

Events

Conferences, Courses and Events

22 May 2012	QMUL Charterhouse Square Campus	Queen Mary Postgraduate Law Conference 2012: Taking Risks and Challenging Legal Thought
31 May 2012	Lincoln's Inn Fields London	International Arbitration Award Writing
14 June 2012	TBC	Euro Conference
18 June 2012	BIICL	Banking Law Symposium
21 June 2012	Freshfields Bruckhaus Deringer London Office	EU Sovereign Debt Crisis: Where From - Where To?
24 June 2012	QMUL	Hamline Summer School 2012 Certificate Program in Global Arbitration Law and Practice: National and Transborder Perspectives
28 June 2012	Paris, France	LLM Paris Programme Launch Party
5 July 2012	Venue TBC	Roundtable Discussion - The Reform of UK Financial Regulation: Progress and Next Steps
12 July 2012	Bocconi University, Milan	European Intellectual Property Teachers' Network Annual Workshop
September 2012	Venue TBC	Roundtable Discussion – Arbitration
19-21 September 2012	Honourable Society of Lincoln's Inn	Training Programme on European Patent Law and Practice (EQE) – Part 1
14-16 January 2013	Honourable Society of Lincoln's Inn	Training Programme on European Patent Law and Practice (EQE) Course – Part 2

For further information on forthcoming events please see our website www.ccls.qmul.ac.uk/events

Careers & Networking



ELSA (The European Law Students' Association)

is the world's largest international, independent, non-political, non-profit-making organisation run since 1981 by and for students.

The ELSA Network works on three levels, the local, the national and the international, carrying out activities in 42 countries at nearly 300 law faculties and encompassing 33 000 students.

There are three focus areas in the activities of ELSA:

Legal Education – ELSA organizes a variety of academically focused programmes and events such as essay competitions, legal research groups, moot court competitions, legal debates, conferences, seminars, law schools, lectures, panel discussions and

institutional study visits. The association aims to give law students and young lawyers from different countries the opportunity to learn and discuss different topics that are not usually included in the curricula of universities as well as apply theory to practice.

International Exchange – The Student Trainee Exchange Programme (STEP) of ELSA enables law students and young lawyers to spend a period of time working abroad in a law related area, thus introducing them to a different legal system and enabling them to gain valuable professional experience. Furthermore, ELSA provides law students with the opportunity to meet colleagues from different countries and familiarize themselves with foreign legal cultures through study visits between ELSA groups.

Soft Skills Development – The European Law Students' Association organises trainings for active members on soft skills such as

Presentation Skills, Negotiation, Project Management and Strategic Planning among others.

All of ELSA activities have a high level of professionalism, as accredited by its general partners: CMS – “the European provider of legal and tax services”, the Council of Europe, Mazars, Queen Mary School of Law, IE Law School, The London School of English, C5 Group and European Voice.

The further information about ELSA can be found on its official website: www.elsa.org

TRAC-X Transport Capacity Exchange GmbH is looking for Intern, please see the following website for details

<https://corporate.tracx.de/en/corporate/karriere/>

Did you know?

- The School of Law offers a number of scholarship for postgraduate study. In 2012 there is a total of twelve LLM scholarships. Of these twelve LLM scholarships, the Centre for Commercial Law Studies (CCLS) will award three overseas fee scholarships and three home/EU fee scholarships and the Department of Law will award three overseas fee scholarships and three home/EU fee scholarships.

- The School of Economics and Finance and the Centre for Commercial Law Studies (CCLS) are offering two bursaries to outstanding full-time candidates applying for the new LLM in Law and Economics programme.

There are also a number of scholarships for PhD students. For more details please go to www.law.qmul.ac.uk/postgraduate/funding

- The School of Law is encouraging and supporting a vibrant research environment throughout the university. In order to do that we have been running the law doctoral research seminar series throughout 2011 – 2012 academic year, to give current second and third year PhD

students the opportunity to deliver a presentation on the subject of their thesis. These are also open to external speakers. They have been so successful that we are planning to run another series in 2013.

- Building upon the success of the existing School of Law London based LLM Programme, CCLS has created the LLM-Paris, an innovative postgraduate programme offering students the opportunity to develop academic and professional expertise in specialised areas of commercial law, including international dispute resolution, banking and finance, intellectual property and international business law. One of the distinctive features of the LLM Paris is the exceptionally wide range of modules offered and the flexible structure designed to enable students with work or study commitments to complete the programme on a part time basis without having to interrupt their professional career.
- The LLM will be taught by CCLS academics and visiting lecturers at ULIP in Paris and will be an exciting opportunity for both staff and students.

- Professor Christopher Millard, leads the Cloud Legal Project at Queen Mary, University of London. The projects looks at the issue of how the current European data protection laws could leave Flickr, Google and Amazon and other online businesses exposed to legal action. These companies provide IT services over the internet, a term known as cloud computing. In a series of four papers, subtitled the 'Cloud of Unknowing', the QM School of Law cite specific issues with the EU Directive on Data Protection, with implications for both cloud computing users and cloud computing providers.

For further comments see the "Cloud of Unknowing" series of papers on data protection law issues in cloud computing, summarised at the end of <http://www.qmul.ac.uk/media/news/items/hs/59481.html> and available in free full text form via the Cloud Legal Project web site at <http://www.cloudlegal.ccls.qmul.ac.uk> (or <http://cloudlegalproject.org/Research>).

On the Bookshelves

You might like to know that QM Library catalogue now contains records for all the material held in the IP Archive, at Russell Square www.library.qmul.ac.uk/news/Mar2012/IPA

Copyright law

Atkinson, B. & Fitzgerald, B. (eds.)

Farnham: Ashgate, 2011,
ISBN 9780754628460 (3 volumes)

The series examines how the law of copyright developed as an instrument of political control and individual expression.

The domestic politics of negotiating international trade: intellectual property rights in US-Colombia and US-Peru free trade agreements

Braun, J. von,

London: Routledge, 2012,
ISBN 9780415601399

This book considers the issues surrounding intellectual property rights in international trade negotiations in order to examine the challenges posed to domestic policy-makers by the increasingly broad nature of Free Trade Agreements (FTAs).

C.I.P.A. guide to the patents acts, 7th ed.

Cole, P.G. & Jones, S.F.

London: Sweet & Maxwell, 2011,
ISBN 9780414018631

The 7th Edition of the CIPA Guide is a fully updated version of this established work, acknowledged since 1980 as a must-have for any practitioner advising on patents.

Ambush marketing and brand protection: law and practice, 2nd ed.

Johnson, P.

Oxford: OUP, 2011,
ISBN 9780199696451

The only book specifically focussed on the protection of major event sponsorship and laws to control ambush marketing

Kerly's law of trade marks and trade names, 15th ed.

Mellor, J. et al.

London: Sweet & Maxwell, 2011,
ISBN 9781847037701

This book provides full explanation of the

UK law of trade marks and trade names.

It covers classification, registration (UK & European), different types of marks, enforcement, infringement and litigation.

Intellectual property and emerging technologies: the new biology

Rimmer, M. & McLennan, A. (eds.)

Cheltenham: Edward Elgar, 2012,
ISBN 9781849802468 (Queen Mary studies in intellectual property)

This unique and comprehensive collection investigates the challenges posed to intellectual property by recent paradigm shifts in biology.

Bellamy & Child materials on European community law of competition, 2012 ed.

Edited by Andrew McNab.

ISBN 0199650608

Updated annually, this volume of EU competition law materials serves both as the Materials volume of the Sixth Edition of Bellamy and Child: European Community Law of Competition, and as a free-standing work of reference in its own right.

Credit at times of stress: Latin American lessons from global financial crisis

by Carlos Montoro and Liliana Rojas-Suarez

BIS Working Paper

European merger control: the challenge raised by twenty years of enforcement experience

Catalin Stefan Rusu.

ISBN 9041132597

Twenty years of experience have inevitably brought to light challenges and tensions in the enforcement of the European merger control system.

Intellectual property in Europe

by Guy Tritton; Richard Davis ... [et al.].

Edition: 3rd ed. ISBN 0421908505

The third edition of this established and successful main work covers the wide range of laws regulating intellectual property in Europe.

The sustainability of pension schemes

by Srichander Ramaswamy.

BIS working papers ; no. 368

The foundations of EC competition law: the scope and principles of Article 102

Renato Nazzini

ISBN 0199226156

Article 102 TFEU prohibits the abuse of a dominant position as incompatible with the internal market. Its application in practice has been controversial with goals as diverse as the preservation of an undistorted competitive process, the protection of economic freedom, the maximisation of consumer welfare, social welfare, or economic efficiency all cited as possible or desirable objectives.

Of Bretton Woods, The WTO and the Integration of transition economies - A theoretical framework.

Essays in international financial & economic law.

Securitization, structured finance and capital markets

Steven L. Schwarcz, Bruce A. Markell,

and Lissa Lamkin Broome

ISBN 0820548510

Provides an introduction to securitisation as a method of financing. It is suitable for an independent course or seminar in securitization and structured finance, and may also be used as supplementary reading or as advanced examples in courses in bankruptcy, secured transactions, trusts, corporations, securities regulation, corporate finance, tax, banking, or accounting.

Blackstone's guide to the Identity Cards Act 2006

John Wadham, Caoilfhionn Gallagher,

Nicole Chrolavicius

ISBN 019928606X

Structured in a clear and logical way following the parts of the Act, it provides an up-to-date and informative guide,

making it an essential purchase for practitioners and organisations working in a number of legal areas.

Personal Author: Lam, Esther. Title: *China and the WTO : a long march towards the rule of law*

Esther Lam

ISBN 9041131442

Joining the World Trade Organisation (WTO) enables China to reform its legal order and to move towards a system incorporating major principles of the rule of law.

Chinese justice: civil dispute resolution in contemporary China

edited by Margaret Y.K. Woo, Mary E. Gallagher

ISBN 1107006244

This volume analyzes whether China's thirty years of legal reform have taken root in Chinese society by examining how ordinary citizens are using the legal system in contemporary China.

Crime and power: a history of criminal justice, 1688-1998

Philip Rawlings

ISBN 0582304016

This book presents the first extended history of criminal justice policy in England and Wales from the late seventeenth century to the late twentieth century, and provides an essential historical context for the study of the modern criminal justice system.

International banking law on the threshold of the twenty-first century

Joseph J. Norton.

Publisher: International Financial & Tax Law Unit, Centre for Commercial Law Studies, Queen Mary & Westfield College, University of London in cooperation with the London Centre for International Banking Studies and the London Institute of International Banking, Finance & Development Law.

Modernising civil liability law in Europe, China, Brazil and Russia : texts and commentaries

Gert Brüggemeier ; foreword by Walter Van Gerven

ISBN 1107007798

Non-contractual liability, stemming from damage accountably caused to another, has been the subject of the PETL and DCFR VI European reform initiatives. Gert Brüggemeier, however, proposes alternative reforms which, instead of trying to overcome the differences between civil law (delict) and common law (torts), are restricted to civil liability.

Outrageous invasions: celebrities' private lives, media, and the law

Robin D. Barnes

ISBN 0195392760

In *Outrageous Invasions: Celebrities' Private Lives, Media, and the Law*, Professor Robin D. Barnes examines the role and nature of privacy in Western democracies. Celebrities are routinely subjected to stalking, harassment, invasion of privacy, and defamation.

Alumni News

- In 2012 Queen Mary students and alumni have taken part in Willem C. Vis Moot in International Commercial Arbitration in Vienna again. This year's team consisted of Constantin Klein (Germany), Thomas Baconin (France/Poland), Alisa Kashentseva (Russian Federation), Sougat Sinha (India), Daria Sakhno (Russian Federation) and Fabricio Fortese (Argentina). All team members are LLM Students at the SIA/CCLS. The team was coached by Mr. Hayk Kupelyants (Armenia), Research Fellow in Private International Law at the British Institute of International and Comparative Law and teaching assistant at the SIA, and Dr. Zbysek Kordac (Czech Republic), a Czech and US qualified attorney who is currently reading for an LLM at the SIA/CCLS. The team is further supervised by Professor Loukas Mistelis, and Dr. Stavros Brekoulakis.
- Following the successful roundtable in March 2011, the Alumni & Friends of the School for International Arbitration (AFSIA) organised a similar roundtable in Frankfurt on Monday, 12 March 2012. The topic of the roundtable is current issues of investment practice, and the focus this year was on Investment Protection and the EU, namely the issues raised by the Commission's draft regulation - including the fate of intra-EU BITs, the grandfathering regulation concerning extra-EU BITs and the proposed division of competences between the Council and the Commission - and future EU investment policies more generally.
- Jessica Lavery, LLM class of 2010, got a full time job as a Corporate Privacy Analyst with Research In Motion (BlackBerry), based in Slough in February 2012. Jessica attributes her success in finding her current role to her LLM, which included modules in Privacy & Information Law, Telecoms Law and Computer Law
- Zoltan Sarkany, LLM in Banking and Finance, class of 2010, took part in the Financial Times and ICFR competition 2011 and got his paper published in the Highly Commended Papers section www.icfr.org/Prize2011.aspx
- Francesco Conti, LLM in Commercial and Corporate Law, class of 2010, is now working in one of the biggest Italian Law Firms, Gianni Origoni Grippo Cappelli and Partners.
- Lucia Satragno has recently obtained a job working as a Research Fellow at the World Trade Institute based in Bern, Switzerland. Lucia is a qualified Argentinean lawyer, who practised for seven years as a legal counsel in the area of banking and finance law in Argentina and Latin America. In 2010 she decided to do the LLM course at the CCLS as a break in her career in order to deepen her knowledge of international finance and banking law and also as a personal experience by living in one of the most amazing cities of the world. Lucia says that she chose QMUL mainly because of the excellence of its academics and for the specialised programme that it offers. After graduating from the LLM as 'Best Student Specialising in Banking and Finance Law' Lucia decided to stay in Europe in order to have an international career and got a job at the World Trade Institute based in Bern, Switzerland. She says that "None of these achievements could have been possible without the generous and selfless support that I obtained from the QMUL academic and non-academic staff and especially from Prof. Rosa Maria Lastra to whom I am very grateful".



Alumni Drinks Reception 2011