

# Shougang's Entry Into Licensing

BY HUAYUAN PAN\*



*Case history of how a major Chinese enterprise was able to modernize its business and operations through licensing*

Shougang, a developing state-owned enterprise had a lot of practice in technology trade, and was very successful in this respect. Set up in 1919, Shougang has a history of more than 70 years. At present, Shougang is involved in iron and steel, mining, electronics, machinery, construction, shipping, international trade, finance, etc., a total of 18 industries. It is becoming a world-famous transnational corporation.

It has 157 plants in 24 provinces, 36 domestic joint-ventures, 57 allied companies, and 23 overseas entities in 10 countries and areas. Its main equipment for iron and steel production reached world-advanced level after modernization. Its main economic technical indexes are not only in the leading position domestically, but some of them are also in the lead in the world.

The annual steel production of Shougang in 1993 was 7 million tons, 10 times as many as in 1978, which was the year before the reform of Shougang. Before the reform, due to the outdated technology and equipment, Shougang had only an annual steel production of 1,790,000 tons in 1978 and could produce only one kind of product, with huge energy consumption and low efficiency. After 1979, Shougang defined the relationship among the state, enterprise, and staff and workers through a contract responsibility system, which improved the management, enhanced the production level and economic benefit, increased the fund accumulation, and

thereby created the opportunities for applying the new technology and process to the modernization of its major equipment.

Since 1979, Shougang has imported 444 advanced technologies from abroad, most of which are patented technology or know-how. Most of the importation is through license agreements, which not only saves the foreign currency, but raises the ability to absorb the technology and therefore enhance the technology level of Shougang.

Meanwhile, Shougang devoted major effort to building up its technical team and enhance its ability to develop new technology. Since 1979, Shougang has undertaken 690 scientific research items at municipal level or above, 82 of which has reached world-advanced level, and 59 of which has been granted a patent by National Patent Bureau. Additionally, Shougang has applied for patent rights for three know-how technologies abroad, and has exported the pulverized coal injection and top combustion technology on hot-blast stove.

There are mainly two phases for the development of Shougang international technology trade. In the 1980s, importation of advanced technology from abroad were the dominant type of technology trade, for many old equipment needed modifying. Entering into the 1990s, with the improvement of the equipment and scientific research capability, Shougang imported less technology, and technology exportation also changed mainly from license agreement as the main type into complete sets of equipment and software programming.

The following are some typical examples for how Shougang devel-

oped its international technology trade.

## IMPORT THE TECHNOLOGY OF SPLIT ROLLING PROCESS

Shougang's merchant bar mill was a mill that manufactures reinforce bar and round bar with a designed capacity of only 300,000 tons. In order to raise the productivity, Shougang signed an agreement with a company in Canada in January 1983 to import two of its patented rights in its split rolling process. Shougang not only imported the license, design, technical service, venerable parts and some equipment but also designed and manufactured some of the equipment. The total investment for this project was 1.49 million RMB. After the mill was put into production, its equipment capacity was brought into full play, and the production efficiency was increased by 50%. It took only two months to get back all the investment.

After importing the technology of splitting rolling process, and through relevant designing, manufacturing, installation, commissioning and practice use, Shougang has not only grasped this technology, but also discovered some vulnerable spots of this technology, and thereafter has taken over 30 technology innovations. For example, after the modification on the guides between the rolling mills, the failure rate was sharply lowered.

Additionally, at the beginning of the importation of splitting rolling process technology, this technology is only applicable to roll the products, whose diameters range from

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10mm to 16mm. After Shougang's grasp of this technology increased, it developed the technology to roll products whose diameters range from 18mm to 20mm to that the applicable range has been expanded.

In 1989, the annual production of this factory reached 872,000 tons, and productivity reached to 1,504 tons per man-year, which surpassed that of NUCOR rolling mill whose productivity was the highest at that time (1,200-1,500 tons/man-year).

#### CO-MANUFACTURING OF EIGHT-STRAND BILLET CONTINUOUS CASTER

The equipment of Shougang No. 2 steel-making plant were imported. In order to raise the technology level of rear process, in November 1985, Shougang imported two eight-strand billet continuous casters from Concaster in Switzerland. In this project, Concaster was responsible for designing caster and manufacturing equipment over 1,600 tons. Shougang was responsible for construction, design, and manufacturing the rest of the equipment over 2,100 tons. Eight-strand billet continuous caster was the most advanced equipment at that time, which had higher requirements on the process design, manufacturing accuracy, and automatic control.

There were only four such casters in the world at that time. In October 1987, the first caster was put into production in Shougang. In November of the same year, the second one was also put into production. This project only took two years from the signing of importation contract to the initial production. Shougang spent the shortest time but built up the most advanced production line, and the improved production has brought obvious economic benefit for Shougang.

On the basis of digesting and absorbing the imported technology, Shougang has continued improving its technology. In November 1992, four eight-strand continuous casters were fitted to the newly-built No. 3 steel-making plant. These casters were designed, manufactured, installed, and com-

missioned by Shougang itself. At the same time, Shougang made modifications on its slab cooling method, control system, and protection, etc., thereby improving this technology. What's more, it took only 16 months from the designing to initial production, which created another wonder.

#### CROSS-LICENSE ON THE BLAST FURNACE TECHNOLOGY

In October 23, 1980, the representatives from China Metallurgical Import and Export Corporation and Shougang, and representatives from Arbed Group Paul Wurth Company in Luxembourg signed the "Cooperation agreement between China and Luxembourg on Blast Furnace Technology." Shougang's technology began entering the international metallurgical industry. This was also the first cooperation agreement with a foreign company in Chinese Metallurgical history.

According to this agreement, Shougang would provide the top-combustion hot-blast furnace technology to Luxembourg, and Luxembourg would in return provide bell-less technology to Shougang.

Paul Wurth Company invented the bell-less equipment in the early 1970s, and sold this patented technology to developed countries. On the basis of its own technology, Shougang has designed the bell-less equipment with its own characteristic. Through this cross-license with Luxembourg, Shougang improved its bell-less technology.

#### EXPORT THE COAL-INJECTION TECHNOLOGY

Since the 1960s, Shougang has continued experimenting on coal-injection. At that time, most of the blast furnaces in the world were using oil-injection, which was comparatively easy to operate. However, in the late 1970s, due to the lack of oil and the increasing price of oil, manufacturers were forced to inject coal instead of oil into the blast furnaces. Therefore, the coal-injection technology that Shougang developed became the focus of the

international metallurgical industry.

On May 1, 1981, Shougang signed a coal-injection technology transfer agreement with Davy McKee Company, Britain. According to the agreement, Davy McKee would sell Shougang's patented technology, coal-injection technology for blast furnace in the areas mutually agreed by both parties within the validity period of the contract, which was 10 years. For each sold equipment, Chinese party would be paid royalties at a fixed rate. Additionally, Shougang would directly provide designing consultation, special test and inspection services to the users, and would also provide training for the operators and technical services after initial production.

During more than 10 years of reform and development, Shougang has actively participated in the international technology trade, importing and absorbing a large amount of advanced technology from abroad. This had great impact on raising the state-of-art of Shougang, and also trained a great number of qualified technicians, improving the performance of Shougang, and raising the level of competence in the international market.

Therefore, in the recent years, Shougang has changed from importing the technology into exporting the complete equipment and software.

Our basic methods in carrying out international technology trade are as follows:

1. Through carrying out the contract responsibility system, Shougang increased the accumulation of development funds and created possibilities for technical innovation.

In order to import new technology and equipment, an enterprise should first of all have development funds. However, it is always somewhat difficult for most developing enterprises to raise capital. Through the contract system, every year Shougang turns over a fixed amount of profit to the state, which is 7.2% more than the previous year.

The more Shougang can earn, the more Shougang can retain; the state will not invest any more in Shougang. In the past 15 years of

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International

## LES INTERNATIONAL PRESIDENT

# LESI Plans Banner Year

BY JEREMY BROWN  
President, LES International

It is both a great honor and a challenge to have been chosen by the international delegates and through them the members of our Societies worldwide to lead them internationally as President of LES International for the coming year. I am most fortunate in inheriting a vibrant and flourishing organization, which has been built up over the years by a highly dedicated band of outstanding people. Thank you all for your support so far and for the support I know I shall get in the future. I am also very conscious that my year will pass only too quickly and that the real strength of the society is the continuity provided by the officers and committee chairs and the international delegates. I shall do my best to serve your well.



Jeremy Brown

Norm Jacobs has set some rigorous standards and will be an extremely hard act to follow. In so doing he has of course implemented and built on the work of his predecessors. I aim to continue building on those efforts to strengthen and improve what LES can offer its members whether through LESI or the national Societies, and to raise the reputation and profile of LES internationally as the organization you must join or deal with if you are interested in effective and efficient transfer of technology.

We are now a formidable organization of 27 national Societies with approaching 8,000 members worldwide. The outstanding attendances of our major meetings are testimony to the value members put on membership of LES and to the extremely high quality of the meetings. We are held in increasingly high regard and our views respected by government departments, trade organizations, and "sister" professional organizations in the intellectual property and technology fields as leading experts in practical technology transfer.

### Notable Example

A notable example in recent years has been our coordinated effort in providing multinationally-supported common recommendations to the European Commission on how the EC regulations for technology transfer may be improved, and in drawing on the considerable experience of our members in commenting constructively on the European Commission's controversial proposals for a new technology transfer block exemption regulation published last year.

Generally, we welcomed many of the new proposals as an advance, and potentially beneficial for technology transfer internationally, but regretted the inclusion of market-share criteria, which threatened completely to undermine the proposals. We were not alone in expressing our concern about the inclusion of market-share criteria in the proposals. As a result, the new technology transfer regulation that was due to come into effect first earlier this year, and then by the end of this year, remains unsettled. We hope that some practical user friendly guidelines will before long emerge from the European Commission, and we remain ready and eager to provide any further input and assistance to the Commission that we can.

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## LESI Aids

## WIPO in

## Licensing Guide

GUIDE ON THE LICENSING OF INTEGRATED CIRCUITS

By WIPO with the assistance of the Licensing Executives Society International (LES).

Contents: Integrated Circuits:

The Industrial and Technological Context;

Intellectual Property Rights In Integrated Circuits;

Licensing of Integrated Circuit Technology;

Glossary of Terms; Sample License Agreements.

Published: September 1995

Price: 20 Swiss francs

The World Intellectual Property Organization, in collaboration with LES International, has published the "Guide on the Licensing of Integrated Circuits," which is available at the address published below.

Gerald Lester of Houston coordinated the LESI aspects with WIPO for the LESIAC Committee.

Arpad Bogach, Director General of WIPO, wrote the following preface to the book:

"The present publication provides an introduction to licensing practices in connection with integrated circuit technology.

"Integrated circuits have been one of the cornerstones of the development of micro-electronics. Few electrical or electronic products are now produced that do not incorporate an integrated circuit that performs a function related to the control or operation of the product or a part of the product. While the use of integrated circuits pervades contemporary industry, the design and fabrication of integrated circuits lies at the forefront of high technology and requires not only the investment of very substantial human and financial resources, but also the most advanced know-how.

"The objective of the present publication is to introduce interested parties in legal and industrial circles to the complexities involved in the licensing of technology re-

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# INTERNATIONAL PRESIDENT

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This is only one example, but of course a most important one, of the responsible role that LESI can take in representing the interests of persons involved in international technology transfer. As eloquently emphasized by the new President of LES (USA & Canada), Gayle Parker, in his acceptance speech in Orlando in October, (reprinted beginning on Page 7) the three crucial things offered by membership in LES, both nationally and internationally, are open discussion, education, and networking. These three are of course very closely interrelated.

The membership of LES is fascinatingly diverse. This is probably unique for a major professional organization. Management representatives from large and small companies, scientists, engineers, academics, government officials, lawyers and patent agents and attorneys, all with the common interest of being involved or interested in the transfer of technology and exploitation of intellectual property rights, rub shoulders in one society.

In such an environment open discussion is essential. All can then benefit from the many different expertises of this diverse body. Through discussions, workshops and lectures the members are educated. Working closely together in an open environment, networking is easy and natural. And as discussed above in relation to the communications between LESI and various member Societies and the European Commission, such open discussion and education is not limited to the members but extended to such outside organizations that can benefit from a better understanding of the business of the transfer of technology in formulating policies and legislation.

## Member Expectations

I have so far presented a very optimistic view but we cannot be complacent. Even in our biggest Societies we must remain constantly vigilant to meet the expectations of our members and improve what we can offer them. Among our smaller or newer Societies life is often much more difficult and, as emphasized by Norm Jacobs in his final address in Orlando, and indeed throughout his term as President, LESI must do all it can to nurture and support the smaller and newer Societies into vigorous growth. That is not to say that those Societies must not themselves do all they can to stimulate interest in their activities among their local members and potential members. It is for those Societies to gauge what should most interest members and attract new ones and to be pro-active in trying to meet those needs and calling for support from LESI where it believes this will be beneficial.

The policy has arisen in recent years that the new President's Expanded Executive Committee meeting is held in a country where the local Society needs stimulation or support. This meeting is essentially the President's planning meeting for his year. He invites to it members of the LESI Executive Committee and chairs and vice-chairs of the various committees of LES International.

Over two days (typically a weekend) the year's activities are previewed and budgets set. The presence of all these people in one place for such a meeting can obviously provide a very useful source of international speakers for a meeting of a local Society, something that Society could probably never otherwise contemplate.

My meeting will be held in Cape Town on January 27 and 28, 1996. To take advantage of this, LES South Africa has arranged a two-day seminar with an exciting program to take place on Thursday and Friday, January 25 and 26. Gratifyingly, most of those attending my Expanded Executive Committee have registered for this separate LES South Africa conference which promises to be a considerable success.

I urge all of you who can make it to South Africa to do so. You will not simply be supporting the local Society, but you will gain valuable and commercially beneficial insights into technology and intellectual property-related developments and business opportunities in an important industrially highly developed region, which has undergone and is still undergoing tremendous changes politically and economically.

The major event of the year for LES International will be the International  
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# LES/WIPO

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lated to integrated circuits. The publication gives an overview of the industrial and technological context in which integrated circuits are designed and fabricated, the intellectual property rights that may exist in relation to integrated circuits and the practices that have emerged in the licensing of integrated circuit technologies. The publication also contains a glossary of the terms most commonly encountered in licenses of integrated circuit technology, as well as three samples of licenses, drawn from practice, between parties in the semiconductor industry.

"The publication has been produced by the World Intellectual Property Organization (WIPO) in collaboration with the Licensing Executives Society International (LESI). LESI made available to WIPO the expertise of its members in preparing drafts of the text of the publication and in collating the sample agreements that are set out in the Annexes.

"WIPO wishes to record its appreciation to LESI for making available the expertise of its members and to those members for the time, energy and expertise which they devoted to the preparation of this publication."

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## Multimedia Meeting Is Big Success

A total of 45 persons from 17 countries attended the first multimedia conference sponsored by LES International's newly formed Multimedia Industries Group. The conference was held on September 17 in Copenhagen, entitled "The Commercial and Legal Issues of Multimedia Licensing."

There were 10 outstanding speakers from industry and the legal profession. The conference had an unusual feature in that the European Commission's Green Paper concerning regulations on multimedia licensing was analyzed by the group, and comments were provided to LESI Europe for incorporation in an official response by LESI to the Commission by the October 1 deadline.

The 250-page conference proceedings are available from the LESI Publications Committee. Contact Mike von Seidel for details on ordering.—R.L.DiCICCO

# YOUR GUIDE TO LESI COMMITTEES

*In his first message as LESI President, Jeremy Brown in this issue of les Nouvelles urges all members to take part in LES activities as an aid to personal and professional growth. There is a wide-ranging selection of interests in LESI from which to choose. To get started, contact a committee leader. Following are their names and addresses.*

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*(Continued from Page 2)*

Conference, which in 1996 will be hosted in Cannes by LES France in early June. Details of this meeting have already been widely published, Thierry Sueur, President of LES France, and his colleagues have worked tirelessly to put together a stimulating program, and the location could not be more congenial.

I hope and confidently expect that this will be one of the most successful LES International meetings ever. There have been some great meetings in recent years, and these will be hard to beat, but Cannes 1996 promises to do so. Those who miss it will regret it, so be there! I look forward to seeing you.

My year will end as usual with the International Delegates' and Committee meetings in North America immediately following the annual USA/Canada meeting. In 1996 these meetings will take place in Puerto Rico in early October at what seems to be an exceptional venue — the El Conquistador, sprawling down a steel hillside to the sea with its own beach and watersports facilities on a private island.

The dedication and verve with which LES (USA & Canada) organizes and runs its meetings is legendary. Already, the program is being organized, and we are promised a feast of thought-provoking and stimulating plenary sessions and informative and lively workshops. It will as always be an honor and opportunity to join in that meeting before our international delegates and committees complete the year's business. So if you do nothing else in 1996, make sure you get your three "Cs" under your belts: Cape Town, Cannes and El Conquistador.

As President I must be impartial, but cannot resist a plug also for the annual meeting of LES Britain and Ireland. It will be held on the island of Jersey in early July. Although this is a national Society meeting, LES Britain and Ireland will welcome friends from around the world. The same of course applies to any and all LES meetings, wherever held. Members of other Societies are always welcome. When you are visiting another country, find out about forthcoming meetings and try to attend.

Finally, please support your local Societies and attend and promote their local meetings. Urge them to meet your requirements, and if you want to get the best out of them, get active.

Thank you again for the confidence you have exhibited in me by electing me as your President. I look forward to working with you during my year.

---

## *Members Reply to LES Benelux Survey*

To find out more about individual interest, the Board of LES Benelux has sent a questionnaire to each member. With the results of the questionnaire the Board hoped that it would be able to better serve the needs of the members of LES Benelux. The questionnaire included questions with regard to membership, distribution of information, organized meetings, and asked for ideas for future topics, speakers and locations.

The Board of LES Benelux is extremely happy with the high percentage of completed questionnaires (52.6%). Without being complacent, they are also very happy with the fact that at the moment more than 90% of the members are of the opinion that LES Benelux is fulfilling their main purpose in becoming a member.

The present level of the membership fee

is considered to be appropriate. Nevertheless, almost 90% indicated that a rise in the fee would not influence the continuation of their membership.

The information distributed by LES Benelux, LES International and other LES chapters is read on a frequent basis and well appreciated (average mark 7). Only the Annual Membership Directory is not used often: only occasionally.

Members of LES Benelux are "very busy." Almost all reasons for not attending a local or international meeting were indicated as "no" or "too costly in time." Still, the afternoon and a rotating location is favored by, respectively, 58% and 85% of the members.

For future meetings many topics were indicated, and these will be used by the Program Committee of LES Benelux. Early

next year a half-day seminar will be organized on the activities of LES International and its committees. Many members indicated interest in attending such a seminar.

The Board of LES Benelux was also very happy with the high number of members (36) who indicated willingness to take part in the Organizing Committee for the International Conference in 2000. The number of Board members can also be increased in the near future, as 16 members indicated willingness to spend 2-4 hours per week on LES Benelux board activities.

Those who are interested in obtaining a full copy of the report, may contact me at (fax +31 15 262 7311).—SASKIA VAN DIJK-STRUYK, Past-President LES Benelux

# Acceptance Presentation of Gayle Parker

(EDITOR'S NOTE: Gayle Parker, incoming President of LES (USA & Canada), gave the following acceptance speech at the Society's annual business luncheon in Orlando, Florida, on Wednesday, October 25.)

## INTRODUCTION

I frequently tell my wonderful secretary when we begin a new project that "Today is the first day of the rest of your life." Today, this applies to me. This also applies to all of you, the members of the Licensing Executives Society.

In my preparation for this meeting and for my term as President of LES, I have thought back to that day in the summer of 1965 when Dan Stice, who was then the new product salesman for the 3M Company in Minneapolis, visited me in my office in Washington, D.C. Dan asked me if I would like to be a charter member of a new organization that was being formed by a group of professionals who were actively engaged in the profession of licensing and other aspects of transferring intellectual property. It was to be called the Licensing Executives Society.

Dan said that there were already enough associations for lawyers, but what was needed now was an organization for both non-lawyers and lawyers who were specializing in licensing and technology transfer on behalf of inventors, small business, large business, government and universities.

At that time, I told Dan that I was already very busy in my licensing activities, and that I was already a member of other professional societies. Also, in my own mind, I thought the new organization would just become another society or bar association for lawyers, and there were already enough of those. So I didn't join in 1965.

The first meeting of the Licensing Executives Society was held in the fall of 1965 at Hollywood Beach, Florida. There were 88 charter members of the new organization. I later learned that there was another active organizer of LES, whose name is Dudley Smith, and who played a very important role in getting LES off the ground. Dudley is here today.

I hasten to point out that I did become a member of the Licensing Executives Society in the very next year, 1966.

And now, here we are, in 1995, at the 31st annual meeting of the Licensing Executives Society, and we are back in Florida, once again.

## PURPOSE OF LES

The Licensing Executives Society is the premier technology transfer society in the world. As stated in the strategic plan, which

has been adopted for LES, the purposes of LES (USA & Canada), Inc. are:

(1) To function as a nonprofit professional society encouraging high professional standards among individuals engaged in the transfer and licensing of technology and industrial or intellectual property rights.

(2) To assist its members in improving their skills and techniques in licensing through self education, the conduct of special studies and research, the sponsorship of educational meetings, the publications of reports, articles and other materials, and the exchange of ideas related to domestic and foreign licensing.

(3) To inform the public, international bodies, governmental bodies, and the business community concerning the economic significance of licensing and the high professional standards of those engaged in the licensing profession.

And (4) To advise, when appropriate, international bodies, governments and business communities on matters pertaining to or impacting on licensing or technology transfer.

## OVERVIEW

At that first meeting in 1965, the first officers were elected, the first committees were appointed, and plans were made to expand the membership and to provide for future activities of the Society.

Let's take a brief, retrospective look at LES, its growth, its members, its organization and its accomplishments, its impact on local, national and international licensing and technology transfer — and then also take a look at what LES can mean to you.

First, I want to share with you a statement made to me a few years ago, by a close friend of mine, and someone whom many of you know and respect — someone with whom I share tickets to the Washington Redskins football games, Gerald J. Mossinghoff, who has served as the United States Commissioner of Patents and for the past 12 years has been President of the Pharmaceutical Research & Manufacturers of America. Gerry told me, that, in his opinion, the Licensing Executives Society is the finest organization of its type in the world for professional people, lawyers and non-lawyers. I certainly agree with Gerry. And I know that many of you agree also because you have shared with me your thoughts about LES.

In order to cover a lot of ground in a short period of time, I will project a few slides to show to all of you the structure, membership, organization and opportunities for you through the Licensing Executives Society (USA & Canada).

Figure 1 shows the structure of LES.

## LICENSING EXECUTIVES SOCIETY (U.S.A. & CANADA), INC.

### STRUCTURE:

Incorporated in state of New York  
Bylaws  
Rules of Conduct  
Long-Range Strategic Plan

### BOARD OF TRUSTEES

11 Officers  
12 Trustees-at-Large

### PERIODICALS

*les Nouvelles* (4 Times Yearly for LESI)  
*LES Viewpoints* (6 Times Yearly)

### MEMBERSHIP DIRECTORY (WORLDWIDE)

### LES ONLINE

LES ADMINISTRATIVE OFFICE  
ALEXANDRIA, VIRGINIA

## Figure 1

Figure 2 shows the current membership of LES (USA & Canada) is 3,894.

MEMBERSHIP	
United States	3,466
Canada	391
Other	37
Total	3,894
Non-Lawyers	56%
Lawyers	44%

## Figure 2

Figure 3 shows the distribution of LES membership in the USA and Canada. In California, there are 587 members and in New Jersey there are 286 members and likewise also 306 members in New York. There is a total of 3,466 members in the USA and 391 in Canada.

Those few committees that were first created in 1965 have now expanded into 72 committees and 31 local area chapters — (Figure 4).

There are 21 committees performing administration for the society, such as audit, bylaws, membership, legal affairs, etc. These are "work committees." When you, as an LES member, join one of these committees, you agree to perform some kind of work or carry out a project for LES.

There are nine "planning and education" committees. These are also "work committees."

Figure 5 shows our three annual meeting committees and two seasonal meeting committees.

As something slightly different, however, there are 22 "business & professional interest" committees. Here we are getting into the real heart and substance of LES. These are really not "committees" because they are really not "work-type

**DISTRIBUTION OF MEMBERS  
UNITED STATES (3,466)**

AL	10	KY	6	ND	1
AK	3	LA	7	OH	115
AZ	29	ME	3	OK	15
AR	4	MD	61	OR	17
CA	587	MA	196	PA	223
CO	67	MI	74	RI	4
CT	108	MN	70	SC	16
DE	42	MS	3	SD	0
DC	122	MO	63	TN	41
FL	64	MT	2	TX	177
GA	40	NE	7	UT	20
HI	2	NV	5	VT	1
ID	5	NH	44	VA	98
IL	250	NJ	286	WA	46
IN	33	NM	19	WV	5
IA	16	NY	306	WI	45
KS	10	NC	96	WY	1

**CANADA (391)**

ALBERTA	52
BRIT COL	51
MANITOBA	3
NEW FOND	1
NOVA SC	1
ONTARIO	203
QUEBEC	74
SASKAT	6
OTHER	37

**Figure 3**

**LES COMMITTEES 1995-1996 (72)**

**A. MEMBERSHIP & ADMINISTRATION (20)**

- A-1 Audit and Financial Advisory
- A-2 Awards
- A-3 Bylaws
- A-4 Committee on Committees
- A-5 Ethics
- A-6 Executive
- A-7 Investments
- A-9 Meetings Coordination
- A-10 Membership
- A-11 Nominating
- A-12 Placement
- A-13 Public Affairs
- A-14 Annual Directory
- A-15 LES Trademark Administration Licensing
- A-16 Social
- A-17 Endowment Fund
- A-18 Council of Past Presidents
- A-19 Insurance
- A-20 Annual Report
- A-21 Legal Affairs

**B. PLANNING & EDUCATION (9)**

- B-1 Technology Transfer and Licensing Seminars
- B-2 Education
- B-3 Long-Range Planning
- B-4 Publications
- B-5 LES Symposia
- B-6 *les Nouvelles* Editorial Review Board
- B-7 *Law & Business of Licensing* Editors
- B-8 LES Online
- B-9 Mandatory Continuing Education

**Figure 4**

**COMMITTEES**

**C. ANNUAL MEETINGS (3)**

- C-1 1995 Annual Meeting
- C-2 1996 Annual Meeting
- C-3 1997 Annual Meeting

**D. SEASONAL/REGIONAL MEETINGS (2)**

- D-1 1996 Winter Meeting
- D-2 1996 Spring/Summer Meeting

**E. BUSINESS & PROFESSIONAL INTERESTS (22)**

- E-1 International Technology Directory
- E-2 Industry and University
- E-3 Government Procurement Technology Rights
- E-4 Chemicals, Polymers & Associated Industries
- E-5 Computer Industry
- E-6 Biotechnology Licensing
- E-7 Agreement Administration
- E-9 Government Regulations of Technology Export
- E-11 Small Business
- E-12 Health Care
- E-13 Valuation and Taxation
- E-14 Federal Technology Transfer and Licensing
- E-15 Intellectual Property in Business Planning
- E-16 Animal, Plant & Food Sciences
- E-17 Commercialization
- E-18 Uniform Commercial Code on Licensing
- E-19 Electronics Industry
- E-20 Trademark Licensing
- E-21 Digital Information, Communications & Entertainment
- E-22 Technology Transfer and Electronic Commerce
- E-23 Trade Secret Licensing
- E-24 Environment Technology Transfer Issues

**Figure 5**

**COMMITTEES**

**F. LEGAL MATTERS (USA and CANADA) (4)**

- F-1 Laws and Government Action - U.S.A.
- F-2 Laws and Government Action - Canada
- F-3 Alternate Dispute Resolution
- F-4 Litigation

**G. INTERNATIONAL AFFAIRS (8)**

- G-1 Western Europe (including EC)
- G-2 Confederacy of Independent States-CIS

- G-3 Latin America
- G-4 Japan
- G-5 People's Republic of China
- G-6 Pacific Rim Countries
- G-7 Central and Eastern Europe
- G-8 NAFTA and GATT Licensing Issues

**H. AD HOC COMMITTEES (4)**

- A/H-1 LES and United Nations Coalition
- A/H-2 Financial Accounting
- A/H-3 CIS Technology Transfer Institute
- A/H-4 Meetings Promotion

**Figure 6**

groups." Instead, they are, for the most part, "interest groups" or what might be called "sections of members." Every member of LES should be a member of at least one of these "interest groups" or "sections of members," based on your professional interests. Some of these interest groups have more than 300 members.

Examples of these are Chemical, Polymers & Associated Industries, Computer Industry, Biotechnology Licensing, Health Care, Electronics, Trade Secret Licensing, etc.

Figure 6 shows there are four committees dealing with legal matters. One committee reviews and considers the current and pending laws and regulations of the United States Government relating to licensing and technology transfer, and another committee does the same thing for Canada.

And there are eight "interest group-type committees" or "sections" of members pertaining to international affairs of licensing and technology transfer, such as Western Europe, Latin America, Japan, China, and Central and Eastern Europe.

Surely, there are numerous interest groups here for each and every one of you that would directly help you in your current and future activities in your profession. For your own good, you should get involved.

Soon I, as president of LES, will be sending to every member of LES (USA & Canada) a letter asking you which committee or interest group section or sections you would like to join. When you return your selection to the LES Administrative Office, the LES staff will prepare lists of members in each committee or interest group section and give the lists to the chairpersons of those committees or sections who will then get in contact with you about the activities of the committee or interest group section.

I can't stress enough the advantage provided by LES for open discussions, education and networking among the members of LES.

Figure 7 shows that LES now has 31 local groups that we now call "local chapters." There are 11 local chapters in the Eastern region of the U.S.; 5 local chapters in the central region, and 8 local chapters in the western region. In addition, there are 7 local chapters in Canada.

These local chapters under the direction of chapter chairpersons meet locally to hold programs for local LES members on licensing and technology transfer. The local chapters offer unlimited local opportunities for open discussion, education and networking in your chosen profession where you live and work.

**LES LOCAL CHAPTERS  
1995-1996 (31)**

**EASTERN REGION (11)**

- New York City
- Philadelphia
- Pittsburgh
- Fairfield-Westchester Counties
- Greater Washington DC
- Greater Boston
- Metro New Jersey
- Research Triangle Park
- Greater Mid-South
- Florida
- Atlanta

**CENTRAL REGION (5)**

- Minneapolis-St. Paul
- Houston
- Chicago
- Cleveland
- Milwaukee

**WESTERN REGION (8)**

- Denver
- Los Angeles
- San Diego
- San Francisco Bay
- Orange County
- Phoenix
- Seattle
- Salt Lake City

**CANADIAN REGION (7)**

- Vancouver
- Toronto
- Calgary
- Ottawa
- Montreal
- Edmonton
- Newfoundland

**Figure 7**

Figure 8 shows that from its start in 1965, the Licensing Executives Society has expanded into 27 Societies throughout the world. These 27 Societies have their own bylaws and officers and members and function under the umbrella of the Licensing Executives Society International (LESI).

**MEMBER SOCIETIES (27)**

- |                  |              |
|------------------|--------------|
| Argentina        | Italia       |
| Australia/       | Japan        |
| New Zealand      | Korea        |
| Austria          | Malaysia     |
| Benelux          | Mexico       |
| Brasil           | Russia       |
| Britain/Ireland  | Peru         |
| China            | Philippines  |
| Colombia/Ecuador | Portugal     |
| Espana           | Scandinavia  |
| France           | South Africa |
| Germany          | Switzerland  |
| Hungaria         | USA/Canada   |
| Israel           | Venezuela    |

CONSTITUTION & BYLAWS  
BOARD OF DELEGATES -  
APPROXIMATELY 85  
5 OFFICERS

**Figure 8**

**LES ADMINISTRATIVE OFFICE**

LES (U.S.A. & Canada), Inc.  
1800 Diagonal Road  
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Alexandria, VA 22314-2840  
TEL: (703) 836-3106  
FAX: (703) 836-3107

**STAFF**

- Meg Nagle Stevens  
    Administrative Manager
- Inga Gilmore  
    Senior Administrator
- Karen Stogner

**Figure 9**

For administrative support of LES and providing of administrative services, from the beginning of 1965 until the end of 1994, LES relied on the volunteer efforts of its members and the services provided by an outside professional contractor to help with the administrative chores of LES. However, during 1994, the LES Board of Trustees studied the need and the possibilities and then decided to establish our own administrative office (Figure 9). During 1994, office space was rented in Alexandria, Virginia, an appropriate location for the office. Experienced staff members were employed, equipment was purchased, and procedures were developed for the new administrative office.

Effective January 1, 1995, the new LES Administrative Office assumed full responsibility for the administrative support for LES, its Board of Trustees, the committees, the local chapters and the LES membership. Through special arrangements with the management of LES International, the new office will also provide selected administrative support for LESI Societies throughout the world on a cost-reimburs-

able basis.

In addition to participating actively in the committees, chapter and special interest groups within LES, the best way to take advantage of your opportunities for open discussion, education and networking is to attend and participate in one or more meetings that LES holds each year.

**MEETINGS DURING 1996**

**WINTER MEETING**

Little America Hotel  
Salt Lake City, Utah  
February 28-March 3, 1996

**SPRING/SUMMER MEETING**

Grove Park Inn  
Asheville, North Carolina  
May 1-5, 1996

**ANNUAL MEETING**

El Conquistador  
Croabas, Puerto Rico  
September 28-October 6, 1996

**Figure 10**

Figure 10 shows the three meetings that will be held during 1996 by LES (USA & Canada). The first meeting in 1996 will be February 28 to March 3 in a beautiful hotel in downtown Salt Lake City, Utah. Special low room rates have been obtained at a cost of \$89 per night, including three days before and after the meeting. As you know, Salt Lake city is the site of the winter olympics in 2002.

The second LES meeting will be May 1-5, 1996, in Asheville, North Carolina, at the historic Grove Park Inn, which has been visited by many U.S. presidents and notables from throughout the world. An outstanding meeting program is being assembled relating to licensing and technology transfer.

The 1996 LES annual meeting will be at the beautiful El Conquistador Hotel outside San Juan, Puerto Rico, during September 28-October 6, 1996. There will also be a meeting of the LES International Board of Delegates.

All of these meetings offer unequalled opportunity for open discussion, education and networking for both new and experienced professionals in the fields of licensing and technology transfer. Please believe me, when I speak as the voice of experience, that there is no better way to improve your skills and your contacts, both domestic and international, in the chosen profession that brings you here today.

There will be additional information about these meetings in future issues of the LES publications which again are the (1) *les Nouvelles Journal*, which we publish four times each year on behalf of LES

International, and (2) the newsletter *LES Viewpoints*, which is published six times each year. You will be sent special mailings announcing these meetings.

#### OPPORTUNITIES

I hope I have shown that there are many wonderful opportunities for every member, both experienced and new, to find and utilize the benefits available through membership and participation in the Licensing Executives Society. This Society provides unequalled opportunities for open discussion, education and networking in your professional activities concerning licensing, technology transfer and related interests.

#### CLOSING

Being President of LES (USA and Canada), Inc. for the next year is a mighty task you have asked me to perform. I know, because I have carefully observed the many activities of those who have preceded me. But, I accept your challenge and this opportunity. It is one of the great joys of my life.

I want to give thanks to those LES past-presidents who have offered their guidance and assistance to me. I especially want to thank Ed Shalloway, this last year's President, and also Mel Jager, who preceded Ed. And also to past-president Platon Mandros, who has been a great inspiration and personal mentor for me.

I want to give special recognition to Carol, my wonderful wife of more than 45 years, who has supported me emotionally and with her love and affection. Thanks also to my children, Alison and Craig, who have allowed me to devote valuable, irreplaceable family time to these LES activities over the past 30 years.

#### MACARTHUR

In my life I have had many wonderful and unique opportunities. I consider this wonderful opportunity to serve as President of the Licensing Executives Society to be right at the top. I also think back to a special event that happened to me about 15 years before I joined LES.

As a young officer in the U.S. Army in Japan, in the spring of 1951, I had just

come out of North Korea when the United Nations forces left in a hurry during the cold winter of 1950. I returned to Tokyo and was in the headquarters of General Douglas MacArthur, who had been the Commander-in-Chief of the U.S. Far East Forces for many, many years and was also the Commander-in-Chief of the United Nations Forces in Korea. You may recall history, that President Truman ended General MacArthur's long and illustrious military career when he suddenly called him back to the United States from Tokyo.

Without going into the details of why or how I was there, I was standing in General MacArthur's private, inner office in the Daichi Building in downtown Tokyo on that April 16, 1951, with only General MacArthur in the room with me. As he stood up and left, never to return, with both of us in a very emotional state, I couldn't speak, so I saluted that wonderful man. He looked at me and returned my salute and left the room. One thing he did *not* say was, "Take charge, Parker."

However, today, Ed Shalloway, the LES outgoing president, has just said to me, "Take charge, Parker." I'll do that, Ed, and I salute you. I also salute you, the members of the Licensing Executives Society, the finest professional Society of its type in the world. Here is a great and unequalled professional opportunity for you and for us to work together in our chosen professional fields. Thank you for this opportunity to serve.

## CALL FOR WORKSHOPS

Anyone interested in presenting a workshop at the 1996 LES (USA & Canada) Annual meeting should submit a proposal containing a title and a brief description of the presentation by January 15, 1996, to Workshop Co-Chairman Tom Filarski at William Brinks Hofer Gilson & Lione, Suite 3600, 455 North Cityfront Plaza Drive, Chicago, Illinois 60611.

## LESI-UNDP Symposium Set

Arrangements are complete for the Technology Transfer Symposium to be sponsored by LES (USA & Canada) and the United Nations Development Program. This symposium will be held May 29 through May 31, 1996, preceding the LESI Annual Conference in Cannes, France.

This is an excellent opportunity to meet and network with people doing business in the CIS. The symposium will address issues dealing with: a) establishment and protection of intellectual property rights, b) discuss successful and unsuccessful technology transfers, and c) pitfalls in doing business in the CIS. Seminars and workshops will allow for interactive participation. For further information contact Mel Jager or Jay Simon.—DAVID BRAUNSTEIN

## LES Japan Loses Key Leaders

*Mamoru Matsumoto*

*Shozo Saotome*

*Koichi Ono*

LES Japan and LESI lost three key figures this year. Mr. Mamoru (Morey) Matsumoto, Mr. Shozo Saotome, and Mr. Koichi Ono passed away this past summer. They will be remembered as the founders and developers of LES Japan.

Mr. Matsumoto, born in 1918, was one of the original members who set up LES Japan in 1972. Thanks to his efforts, the 1972 LESI conference was held in Tokyo to celebrate the establishment of LES Japan. Mr. Matsumoto presided over LES Japan as President from 1975 to 1977. In recent years, he withdrew from official LES activities due to health problems. He passed away on July 30, 1995.

Mr. Saotome was one of the first Japanese members of LES (USA & Canada). Since that time, Mr. Saotome devoted his time and energy to organizing various study meetings that led to establishment of LES Japan in 1972. Mr. Saotome was the fourth President of LES Japan, from 1978 to 1980. He chaired the 1985 LESI conference that was held in Tokyo. Although Mr. Saotome received medical treatment during those days, he remained devoted to LES Japan until he died on August 24, 1995.

Mr. Ono was active in various arenas. He was the President of LES Japan when the 1985 LES International Conference was held in Tokyo. In addition to LES, Mr. Ono devoted time to other organizations such as KEIDANREN and PIPA (Pacific Intellectual Property Association). He was the President of PIPA in 1982 and a chairman of the GATT Working Group sponsored by KEIDANREN, a major economic organization in Japan. With his profound knowledge and expertise, Mr. Ono was regarded as an opinion leader in the field of biotechnology-related intellectual property. Mr. Ono died on August 19, 1995, after several months of hospitalization.

Our deep condolences go to the respective families of the deceased.—HISANORI TANAKA, President, LES Japan

# New Belgian Copyright Act Adopted

BY BRUNO VANDERMEULEN\*

After six years of parliamentary discussion, the Belgian Parliament on June 30, 1994, adopted a new Act on Copyright and Neighbouring Rights (hereafter: CNRA). On the same date, it adopted the law incorporating the European Directive of May 14, 1994, on the legal protection of computer programs into Belgian law.

The old Belgian Copyright Act (March 22, 1986) was one of the oldest copyright acts in Europe.

The most important purposes of the CNRA are threefold:

1. To make the necessary adjustments for a technology in full development.
2. To promote the realization of intellectual creations by improving the status of authors and persons who assist in the realization of the work.
3. To modify Belgian law to conform it to several international treaties and European directives.

The CNRA focuses on four major areas, namely on copyright (with a separate chapter on satellite broadcasting and cable retransmissions), on neighboring rights, on the issues of private copying, reprography and public lending and finally on the supervision of copyright management companies. In addition, changes were made to the general criminal and civil provisions of the old Belgian Copyright Act.

The purpose of this discussion is not to give a complete and detailed analysis of all changes that have been made to Belgian copyright law. The most important changes to Belgian copyright law, the provisions on neighboring rights as well as the issue of private copying, reprography and public lending will, however, be scrutinized.

## PROVISIONS ON COPYRIGHT SCOPE, DURATION, EXCEPTIONS

Article 1 of the CNRA sums up the property rights an author has on his work. A work is copyright protected if it reflects an intellectual effort by its maker and bears the mark of his personality. The fundamental distinction between property rights on the one hand and moral rights on the other hand is maintained. However, both categories are more clearly explained.

The CNRA clearly provides that the exclusive right of the author to reproduce or to authorize the reproduction of his work, in any matter and in any form whatsoever, notably includes the sole right to authorize the adaptation or translation of the work, the communication to the public by any method whatsoever as well as the right to authorize its rental or public lending, thereby confirming, in application of the

\* *Loeff Claey's Verbeke, Brussels, Belgium*

European directives, the prerogatives the Belgian courts had already granted authors under the old Copyright Act. In addition, the CNRA grants legal licenses in case of private copying, reprography and public lending, nevertheless providing a legal basis for compensation in such cases. The moral rights of the author include the right to make the work publicly known, the right to claim or refuse its authorship, and the right to respect.

The term of protection of a literary or artistic work is extended to a period of 70 years following the death of the author, pursuant to the European directive harmonizing the terms of protection. Posthumous works benefit from a 25-year protection as from the time when the work was lawfully published or lawfully communicated to the public for the first time.

## Rights Not Absolute

The author's exclusive rights are, however, not absolute. In certain circumstances, the author cannot exercise his exclusive rights to oppose the use of his work by third parties. These circumstances are provided in Articles 21 to 23 of the CNRA, which are, in comparison with the old Copyright Act, more clearly defined.

If the work is lawfully published, the author may also not prohibit the work from being communicated free of charge for personal use within the family circle or from being performed free of charge during a public examination. The author may no longer prohibit audio and audio-visual works from being performed within the family circle and reserved for the latter.

Moreover, the author may not prohibit reproductions, in part or in full, of articles or plastic works, of short fragments from works presented through a graphic or similar medium, provided such reproductions are effected for a strictly personal or educational purpose and do not prejudice the original version of the work.

Finally, the author may not prohibit the lending of literary works, scores of musical works, audio works and audio-visual works if such loans are organized for an educational and cultural purpose by recognized institutions or by institutions that are officially organized for this purpose by Belgian public authorities. Nevertheless, private copying of audio and audio-visual works, reprography and public lending imply compensation for the author.

## COPYRIGHT CONTRACTS

The CNRA includes several provisions that should be taken into account when concluding copyright contracts under Belgian law. These provisions, which were

inserted into the CNRA to ensure a better protection for the author, can be divided into articles containing rules applying to all copyright contracts on the one hand and articles applying only to specific types of contracts. Moreover, specific provisions have been included to address such issues as the works created by an author pursuant to an employment contract or a statute governing his employment relationship or pursuant to a contract commissioning an author to create such a work.

## COPYRIGHT CONTRACTS IN GENERAL

Generally, contractual provisions relating to copyrights and to their methods of uses should be strictly interpreted. The specific provisions governing all copyright contracts can be summarized as follows:

First, there must be written proof of all copyright contracts with the author. Consequently, if the author contests whether he or she has assigned his rights, the other contracting party must be able to present the written proof of such assignment. The author, however, can prove the assignment of his rights by any legal means of evidence.

Second, the assignee must ensure that the work is issued according to the fair practices of the profession.

Third, for each method of use the author's remuneration as well as scope and duration of the assignment must be expressly stated. The remuneration can be a lump sum or a percentage and knows no minimal requirement.

Fourth, any assignment of rights concerning currently known forms of use shall be null and void, notwithstanding any provision for the contrary.

Finally, any assignment of property rights relating to future works shall only be valid for a limited period, and provided that the type of works affected by the assignment are defined.

As far as the assignment of the moral rights is concerned, any full waiver of the future exercise of such rights shall be null and void. A partial assignment of moral rights is possible, though only as a result of a concrete problem and on the basis of a clear understanding. Notwithstanding any waiver, however, the author shall retain the right to oppose any distortion, cutting or other modification of his work or any other interference with this work, which is prejudicial to his honor or reputation.

## SPECIFIC COPYRIGHT CONTRACTS

In addition, the CNRA also includes provisions only applying to specific copyright contracts. These must be applied together with the provisions discussed above. These

provisions involve publishing contracts, performance contracts and audiovisual adaptation contracts.

A publishing contract can be defined as any contract by which an author of a work assigns to a person (the editor) the right to reproduce the work or to have it reproduced for remuneration. Three general rules should be kept in mind when drafting a publishing contract.

First, the publishing contract must specify the minimum number of copies constituting the first print run, unless the contract provides for a guaranteed minimum in respect of royalties payable by the publisher.

Second, the publisher must produce the copies of the work or arrange for them to be produced with the agreed period, or if this is not stipulated in the contract, within a determined period according to the fair practices of the profession. If the publisher fails to fulfill this obligation within these timelimits without being able to furnish a legitimate excuse, the author may repossess his assigned rights.

Finally, a so-called success clause has been included, giving the author the right to obtain an adjustment of the remuneration he received from the editor for the assignment of his publishing rights. Unless otherwise agreed, the publisher shall undertake to pay to the author remuneration proportional to the gross receipts. If the author has assigned the publishing rights to the publisher on such terms that, in view of the success of the work, the fixed remuneration agreed upon shall be manifestly disproportionate to the profit derived from the use of the latter, the publisher shall be bound, at the request of the author, to modify the remuneration in order to grant the author a fair share of the profit. The author may not waive this right in advance.

A performance contract can be defined as a contract by which an author of a work authorizes a person or a company (the organizer of performances) to publicly perform the work under his conditions. As for the publishing contract, three rules should be emphasized.

First, the performance contract must be concluded for a limited period or for a given number of communications to the public. Second, the disposal or exclusive license granted by an author for the purpose of live shows may not exceed three years. Any interruption in the performances in the course of two consecutive years shall automatically terminate the contract. Finally, a success clause was also included for performance contracts.

The CNRA also has a special rule applying to audio-visual adaptation contracts, which provides that the granting of the right to make an audio-visual adaptation of a pre-existing work must form the subject of a separate contract from the publishing

contract in respect of the work. The beneficiary of the right shall undertake to use the work according to the fair practices of the profession and to pay to the author, unless otherwise stipulated, remuneration proportional to the gross receipts collected.

#### THE ASSIGNMENT OF PROPERTY RIGHTS WITHIN THE FRAMEWORK OF AN EMPLOYMENT CONTRACT, A STATUTE GOVERNING AN EMPLOYMENT RELATIONSHIP AND FOR COMMISSIONED WORKS

As for all copyright contracts, property rights are not presumed to be assigned by the author for works created pursuant to a contract of employment. Assignment is, however, possible but only on the condition that (a) the assignment of rights is expressly provided for, and (b) the creation of the work comes within the scope of the employment contract or statute governing an employment relationship. The assignment of works that are commissioned should also be expressly provided for and is only possible if the activity of the commissioner comes under the noncultural or advertising and if the work is intended for such activity.

Contrary to what is true for copyright contracts in general, the rules concerning the methods of use, the fair practices of the profession, the assignment of currently unknown forms of use and the assignment of future works do *not* apply to the assignment of property rights for works created pursuant to a contract of employment, a statute governing an employment relationship or works created on commission. Consequently, it is possible to assign unknown forms of use upon the conclusion of an employment contract or upon recruitment under a statute governing an employment relationship. In such case, the assignment must be expressly worded and stipulate a share in the profit generated by such case. The scope and manner of the transfer may be determined by a collective agreement.

#### THE PROVISIONS ON NEIGHBORING RIGHTS

##### *Scope, Duration, Exceptions*

Until the CNRA came into force, artists or performers, broadcasting organizations and producers of phonographs and of first recordings of films were only protected to a certain degree to their performance, be it contractually or via the provisions on Unfair Competition in the Belgian Trade Practices Act. No specific recognition and protection existed.

Henceforth, the neighboring rights of artists or performers, producers of phonographs and first recordings as well as broadcasting companies are expressly recognized.

Artists or performers form a first category entitled to neighboring rights. They are assured a full protection for their performance, such protection being mainly parallel to copyright protection. As is the case for the author, the artist or performer has property rights as well as inalienable moral rights on his performance.

The property rights of the artist or performer are regulated in Article 35 of the CNRA, according to which he has the exclusive right to reproduce his performance or to authorize its reproduction, in any manner and in any form whatsoever, which notably includes the right to authorize the rental or lending of his work and to make his performance available to the public by any method whatsoever. In addition, the artist or performer shall have the sole right of distribution.

The artist's or performer's inalienable rights on his performance are the right to respect and the right to authorship. However, the moral rights of the artist or performer are more limited than the moral rights of the author. The artist or performer indeed only has the right to have his name mentioned according to the fair practices of the profession as well as the right to prohibit any inaccurate attribution.

The neighboring rights of an artist or performer shall expire 50 years following the date of the performance. However, if a recording of the performance is lawfully published or made available to the public, the rights shall expire 50 years following the date of the first of these events.

A second category of neighboring rights is granted to producers of phonograms and first recordings of films. These producers have, without prejudice to the right of the author and the artist or performer, the exclusive right to reproduce their work or to authorize the reproduction of the same in any manner and in any form whatsoever. This right notably includes the right to authorize rental or lending, the sole distribution right within the European Union as well as the right to make the phonograms or the film available to the public, by any method whatsoever.

Their neighboring rights shall expire 50 years following the recording. However, if the phonogram or first recording of the film is lawfully published or made available to the public during this period, the rights shall expire 50 years following the date of the first of these events.

For this category of neighboring rights, it should be emphasized that, without prejudice to the right of the auditor, the artist or performer and the producer may not oppose the presentation of the work in a public place, provided that this work is not used in a show and that an entrance fee or consideration for enjoyment of this presentation is not charged to the public, whenever the performance of an artist or

performer is lawfully reproduced or broadcast.

A third and final category of neighboring rights is granted to broadcast organizations. Their written agreement shall be required in order to perform (a) simultaneous or deferred retransmission of its broadcasts, including cable transmission and satellite communication to the public; (b) reproduction of its broadcasts by any method whatsoever, including the distribution of recordings of its broadcasts; and (c) communication of its broadcasts in a place open to the public in return for an entrance fee. The period of protection of these neighboring rights is 50 years following the first transmission of the broadcast.

Pursuant to copyright law, there are several circumstances in which the holders of neighboring rights may not use their exclusive rights. These are more or less identical to the ones for the author and will therefore not be discussed.

#### PRIVATE COPYING, REPROGRAPHY AND PUBLIC LENDING

After a long discussion, the Belgian legislators decided to set out the basis for compensating authors, artists or performers and producers of phonograms and audio-visual works for the private copying

of their performance.

This compensation must be paid by the manufacturer, the importer or the purchaser in the European Union of supports, which can be used for reproducing audio works and audio-visual works or equipment that enable the reproduction. The amount and allocation will be fixed by royal decree and calculated on the basis of the sales price of the equipment or supports mentioned above. The author can assign this right for compensation.

Apart from the compensation for private copying, the CNRA also provides a basis for regulating reprography. The compensation granted to authors and editors is paid by the manufacturer, the importer of the purchaser in the European Union of the equipment by which the protected works can be reproduced, on the date on which this equipment is commercialized on the national territory. In addition, the persons or companies that produce copies of works or those who place reproduction equipment at the disposal of third parties, for free or for consideration, must also pay compensation. This compensation, however, is proportionate to the number of copies made.

Finally, authors and artists or performers are also entitled to compensation in case of public lending of their works for an educational or cultural purpose by officially

recognized institutions.

#### CONCLUSION

It goes beyond saying that the CNRA should be welcomed as a long overdue update of the country's copyright legislation.

The efforts of the legislators to take into account even the newest means and techniques of reproduction, broadcasting and transmission of authors' works have indeed resulted in an up-to-date and modern statute. It could be argued, however, that this concern to provide specific solutions rather than general rules may in itself give rise to new problems.

Another concern is the degree of formality that this Act instills in the contractual relations between authors and third parties. One does not have to be clairvoyant to predict that the absence of written records evidencing the assignment of an author's rights will become a legal nightmare for many an assignee.

As the first disputes under this act are now being brought before the courts, it remains to be seen whether this Act is up to the standards of such Belgian authors and artists as Herge, Simenon, Brel or Panamarenko.

## USA/Canada Trustees Approve Web Site

BY BRIAN O'RIORDAN  
Co-Chair LES Online Committee

As of January 1, 1996, *LES Online* will be available via the World-Wide-Web. Our "Home Page" will have a public portion, accessible to anyone, and a private, password-protected portion that will be accessible to our membership. Passwords will be sent to all LES (USA & Canada) members by the end of the year, free of cost and without online time charges.

The current access to *LES Online*, via dial-in to KEDS, will continue as before (with charges for online time), but it is expected to be phased out as the advantages of the Web Site become clear.

The decision, made at the October 26 Board of Trustees meeting, is contingent on being able to formalize the agreement reached between LES (USA & Canada) and Knowledge Express in time to have the new setup running the first of the new year.

For those of you, like myself, who have been slow to try the Web, the technology has progressed to the point that it is easier to use than most VCR remotes, and it should be even more widely available and

"user friendly" as more sites, providers, and users are added.

There are currently more than 20,000 sites, a number that is doubling each year. The number of providers is also growing rapidly. Should you need it, KEDS will provide state-of-the-art software for browsing. Its outstanding customer support will also continue making the transition to the Web much more pleasurable than a trip to the dentist (as some characterize installing and operating new computer options).

Once there you will find that the Web is much like your phone service, except that it is for printed and graphic information. Our Web Site will be one where information pertinent to the Society will be quickly and accurately accessed, using menus, and when needed, a powerful search capability.

The LES Web site will have several distinguishing characteristics. One will be graphics, which should eventually expand the amount of material that can be included in the existing data bases (*les Nouvelles*, the Enhanced Membership Directory, the LES Technologies listing, workshop abstracts, committee postings, special pres-

entations, jobs available and wanted, etc.). Another feature will be the ability to link with other related web sites (companies, universities, law firms, information services, etc.). The services available in the current product — e-mail, forums, calendar, and the "What's New" posting — will continue.

New services and data bases will be added as we identify additional Society needs. For instance, it is likely that you will be able to register for meetings, submit information for the enhanced membership directory, join committees, conduct surveys, ask questions of the Headquarters staff, and, of course, tell us how to improve LES Online.

A prototype of the home page is currently available on the Web located at <http://www.keds.com/les/>, which can be viewed, but is still under development. Any comments are welcome. We on the LES Online Committee look forward to working with you in the coming year to make this service the best possible resource.

# Recent Decisions in Trademark Licensing

BY J. PAUL WILLIAMSON  
and J. MIKE AMERSON\*

Cases from the last several months reflect that a "joint's" advertising practices, even if disapproved by the mark owner, might not be a breach of contract if there is no impact on the uniformity of use or validity of the mark in question; naked licensing froze out the claim of a hog heating pad inventor, and a foreigner's licensing of copyrights and trademarks for Russian classical music recordings should have tuned in that licensor to its exposure to a lawsuit in New York.

**T.G.I. Friday's Inc. v. National Restaurant Management, Inc.**  
59 F.3d 388, 35 U.S.P.Q. 2d 1369  
(2d Cir. 1995)

T.G.I. Friday's Inc. ("TGIF") sued National Restaurant Management, Inc. ("NRMI") to terminate NRMI's right to use the FRIDAY'S marks ("T.G.I. FRIDAY'S" and "FRIDAY'S") in view of "joint advertising" being conducted by NRMI that TGIF alleged to be in breach of its agreement with NRMI. The District Court agreed with TGIF and permanently enjoined NRMI from using the FRIDAY'S marks. The Second Circuit reversed and remanded.

The case centers on specific language in an Assignment Agreement that was entered into by the original owner of the FRIDAY'S marks when he assigned his rights to TGIF, but at the same time reserved the right to use the marks within a "Core Area" subject to particular terms. The rights in this Core Area, including the reserved rights in the FRIDAY'S marks, ultimately came to be owned by NRMI. In addition to operating FRIDAY'S restaurants in the Core Area, NRMI also operated a number of other restaurant concepts in the Core Area under other marks.

In 1991 and 1992, NRMI began engaging in forms of "joint advertising," that is, putting out advertising materials that made use of the FRIDAY'S marks and of marks of other restaurant concepts operated by NRMI. Upon learning of this joint advertising, TGIF gave NRMI a notice of "disapproval" of such activity under Article IV, Paragraph 4 of the Assignment Agreement, which read:

In order to insure uniformity in use and to maintain the validity of the Marks, ASSIGNOR [defendants] shall display in connection with its Friday's restaurant-bar operation only such signs or advertising material as shall not be disapproved by ASSIGNEE [plaintiff].

Despite two notices of default and a

\* Arnold, White & Durkee, Arlington, Virginia, and Houston, Texas.

commitment of NRMI to cure the default, instances of joint advertising continued and this action ensued.

TGIF's Vice-President of Marketing testified that the joint advertising promotions blurred TGIF's image and made it appear as though all the NRMI restaurants were one and the same and that such advertising was inconsistent with TGIF's efforts to build a distinct image as a restaurant that offers a unique casual-dining experience. The District Court found NRMI to be in default and declared NRMI's reserved rights in the FRIDAY'S marks to be terminated.

NRMI argued that the District Court erred by failing to make a specific finding that NRMI's use of joint advertising was inconsistent with TGIF's efforts "to insure uniformity in use and to maintain the validity of the Marks" so as to be a breach of the Assignment Agreement.

The Second Circuit agreed with NRMI, concluding that Paragraph 4 of the reservation of rights terms of the Assignment Agreement permitted TGIF to disapprove of advertising material *only* if that disapproval promoted the efforts of TGIF "to insure uniformity in use and to maintain the validity of the Marks." The Second Circuit said the District Court had to make a specific finding that the disapproval of TGIF was sufficiently related to the clearly stated purpose of Paragraph 4 above.

The case was reversed and remanded to the District Court for further proceedings as deemed necessary to determine whether it was reasonable for TGIF to conclude that the joint advertising of NRMI was inconsistent with the efforts to insure uniformity in use and to maintain the validity of the FRIDAY'S marks. The Second Circuit suggested that additional evidence might be necessary, such as from experts or through market surveys, implying that the testimony of record of the Vice-President of Marketing of TGIF on the impact of the joint advertising would not be sufficient independent evidence.

**Stanfield v. Osborne Industries Inc.**  
F.3d 867, 34 U.S.P.Q.2d 1456 (10th Cir. 1995), cert. den. 1995 US Lexis 6888, 64 USLW 3270 (US 1995)

This is an appeal of a summary judgment in favor of the defendants Osborne Industries, Inc., et al. ("Osborne") finding that plaintiff Phillip Stanfield ("Stanfield") entered into a naked license resulting in the abandonment of any rights he may have had in the mark STANFIELD and effectively eliminating any standing for Stanfield to make any claims under § 43(a) of the Lanham Act against Osborne. The Tenth

Circuit agreed.

In 1972, Stanfield came up with some new agricultural products, including a heating pad for newborn hogs. Although not in the business of manufacturing these products, Stanfield was successful in getting community leaders to form Osborne for the purpose of manufacturing and selling Stanfield's products. This was done in 1973. Osborne got the right to manufacture the products of Stanfield in exchange for royalties on sales (a patent application was filed by Stanfield). Stanfield also became an employee of Osborne in 1973.

In 1975, Osborne decided to expand and develop its products and markets and to develop a trademark.

In July 1975, an agreement, with a 15-year term, was entered into between Stanfield and Osborne and was labeled a "License Agreement." This agreement acknowledged Stanfield as the inventor of certain products which Osborne was manufacturing. It also noted that Osborne was manufacturing products not invented by Stanfield and the desire of Osborne to use the name Stanfield on all or only some of the products Osborne was offering, at Osborne's discretion. The agreement stated that in consideration of the use of the name "Stanfield" in regard to any or all products manufactured by Osborne, the sum of \$75 was to be paid to Stanfield for the use of that name.

Osborne commenced use of STANFIELD as a mark and obtained a federal registration for that mark in March 1977.

Stanfield became disenchanted with Osborne and resigned from that company in September of 1975. In February 1976, Stanfield's patent application for the hog heating pad was denied and Osborne stopped paying royalties to Stanfield in connection with the sale of heating pads. This led to a Stanfield lawsuit for continued payment of those royalties, which case was ultimately determined in favor of Osborne.

In September 1991, Stanfield demanded that Osborne discontinue use of the STANFIELD trademark, claiming that the 1975 License Agreement had expired. Osborne did not cease its use and Stanfield filed an action under § 43(a) and several state law theories.

The Tenth Circuit agreed with the District Court that the 1975 agreement was a naked license, meaning that Stanfield had abandoned any rights that he may have owned in the trademark STANFIELD.

First, the Tenth Circuit confirmed that the agreement itself gave Stanfield no express contractual right to inspect or supervise Osborne's operations in any way, or to control Osborne's use of the STANFIELD mark.

Second, the District Court and the Tenth Circuit looked at what actual control may have been exercised by Stanfield over use of the mark.

Stanfield's employment with Osborne had terminated in 1975 and Stanfield's arguments that he exercised control by examining heating pads produced by Osborne and reviewing Osborne's promotional materials were not persuasive.

Stanfield also argued that he was entitled to rely upon Osborne for quality control and that this was sufficient to avoid a finding of a naked license. The Court's analysis of the cases where a licensor had been successful in relying upon the licensee's quality control efforts was that some "special relationship" always existed between the parties in those cases. Typically, this was a long-term working relationship between the licensor and licensee. No special circumstances were found here.

The Tenth Circuit refused to consider Stanfield's arguments on licensee estoppel since that had not been an issue raised before the District Court.

Consequently, the 1975 agreement between Stanfield and Osborne was found to be a naked license by which Stanfield abandoned all rights in the STANFIELD mark.

The Tenth Circuit then concluded that since Stanfield was not a competitor of Osborne, and never had been, he had no standing to make a false advertising claim under § 43(a). Further, since Stanfield had abandoned any rights in the STANFIELD mark, he had no commercial interest to rely upon in order to having standing to make a false association claim under § 43(a). The summary judgment in favor of Osborne was sustained.

**Firma Melodiya v. ZYX Music GmbH**  
35 U.S.P.Q.2d 1562 (S.D.N.Y. 1995)

Firma Melodiya and BMG Music filed an action for copyright and trademark infringement against ZYX Music GmbH, ZYX Music Distribution Inc. and others based upon the distribution of particular musical recordings in the United States. Certain of the defendants (collectively referred to as the "Allwood Defendants") moved to dismiss the complaint for lack of personal jurisdiction.

The Allwood Defendants argued that since they did not reside or do business in New York, or anywhere else in the United States, since they were not incorporated in New York, since they did not have agents, employees, officers, phone listings or assets in New York and did not pay taxes in New York, and since all *their actions* in issue occurred outside the United States,

personal jurisdiction would violate their right to due process.

The Allwood Defendants acknowledged that they had given a license to exploit the musical recordings in question to defendant ZYX Music GmbH and that this license agreement was later amended to permit exploitation of the recordings in the United States and Mexico.

The Allwood Defendants also argued that the alleged infringement was not committed by their licensee ZYX Music GmbH, but by a separate entity, ZYX Music Distribution, Inc., termed an "Intervening party," and that the Allwood Defendants should not be responsible for the actions of a licensee of ZYX Music GmbH.

The plaintiffs contended that the Allwood Defendants had no right to grant any license to the musical recordings and that the marketing of the recordings in New York was a violation of the copyright and trademark laws.

The District Court decided that the New York long-arm statute applied to the Allwood Defendants for two reasons.

First, the Allwood Defendants' licensee ZYX Music GmbH was found to have conducted marketing activity in New York, thus placing the Allwood Defendants within that section of the New York long-arm statute giving jurisdiction over a party who enters into a contract to license the sale of goods or services in New York, regardless of where the license was executed. Further, the Court found that the agreement between the Allwood Defendants and ZYX Music GmbH contemplated sale of recordings in the United States and that it was irrelevant whether ZYX Music GmbH did the marketing itself or chose another entity to carry out its agreement with the Allwood Defendants. It was noted that the contract did not specifically reference any obligation to market in New York, but only in the United States. Nevertheless, the Court concluded that the nature of the recordings, Russian classical music, was such that the Allwood Defendants should have anticipated marketing activity in New York.

Second, long-arm personal jurisdiction in New York was also sustained since licensing an infringing trademark is a tort that would subject the licensor to jurisdiction in New York where the Allwood Defendants reasonably should have expected that the recordings in question would be exploited in New York. The Court decided that was a reasonable expectation for the Allwood Defendants to have had.

Therefore, the motion to dismiss was denied.

## Winning Strategies Is Winner

WINNING COMBINATIONS: THE COMING WAVE OF ENTREPRENEURIAL PARTNERSHIPS BETWEEN LARGE & SMALL COMPANIES

James W. Botkin and Jana B. Matthews  
John Wiley & Sons, Inc., 1992

This is an important book for anyone responsible for planning and executing technology strategies for large and small companies. It provides an early analysis of a phenomenon, "Strategic Partnerships," which has since become one of the principal buzz words of licensing professionals.

Along with widespread acknowledgment that paradigm shifts are much more frequently created by entrepreneurial mavericks, operating at the peripheries of markets, has been the recognition that the traditional forms of licensing no longer meet the needs of small proprietors and large companies. The speed of technological obsolescence and the need to alleviate weaknesses in various phases of the value chain — (a) research development and design, (b) production, and (c) marketing sales and distribution — have created the need for new forms of partnering between large and small companies.

The authors draw on a wealth of firsthand experiences in illustrating their central thesis. This is that many companies in the United States, Japan and Europe, that have replaced their traditional insularity with a willingness to enter into long- and short-term focused relationships with others having complementary strengths, are realizing important advantages. There are certainly risks and pitfalls to this process, and these are carefully explored. They can frequently be overcome by an appreciation of this new phenomenon.

This reviewer regrets the fact that he did not discover this book, originally issued in 1992, until recently. The theories and comments by the authors remain pertinent, but one wonders about the more recent fortunes of many of the relationships that are described. It is hoped that the authors are considering to write an updated version, both to provide further information about such relationships, and also to enlarge upon their general observations about a movement that has become widely accepted.—ROBERT GOLDSCHIEDER

# USA/Canada Winter Meeting in Utah

BY LOU BERNEMAN  
Meeting Chair

LES (USA & Canada) will kick off 1996 with a Winter Meeting in Salt Lake City, Utah, February 29-March 2. The theme for the meeting is "Forcing Technology: The Rules Are Changing."

The program will be of interest to all LES members and others involved in the development, protection, transfer, and commercialization of technology. Sessions will feature knowledgeable and interesting speakers in formats designed to promote interaction. Questions and comments will be encouraged.

Plenary session topics include:

- What Do We Know About Patent Prosecution Nine Months After GATT — The Provisional Applications.
- Life After Down-Sizing: Leveraging External Sources of Technology.
- Need It Be War? — Industry-University Relations

Workshop topics include:

- Protecting, Licensing, and Commercializing: Software, Human Genome, Consumer Products.
- Licensing Strategies for Small Companies.
- Valuing Prospective Technologies.
- Ethics in Licensing.
- Introduction to Patenting and Licensing.

Add-On Seminar topics are:

- Technology Transfer in Cyberspace: A



Little America Hotel in downtown Salt Lake City is location of USA/Canada's Winter Meeting

Multimedia Approach to Doing Business (Electronic Commerce Committee).

- Licensing Biotechnology (Biotechnology Committee).

**Register early and receive a \$45 discount. LES members can register before December 31 for only \$350.**

The Little America Hotel, located in the heart of Salt Lake City's business, historical, cultural, and entertainment district will provide meeting facilities and first-class accommodations. Complimentary transportation to and from Salt Lake

International Airport will be provided by the hotel. A limited number of rooms have been reserved at \$89 (Garden Deluxe) and \$104 (Tower Suites). Reservations must be made by February 7, 1996. The hotel will honor these rates for three days before and after the meeting.

A special mailing to LES (USA & Canada) members will be made that includes the final program details. The preliminary program is as follows:

## PROGRAM

### WEDNESDAY, FEBRUARY 28

- 5:00 pm- 7:00 pm Registration
- 6:30 pm- 8:00 pm Biotechnology and Electronic Commerce Add-On Seminars and Committee Reception
- 6:30 pm-10:00 pm Trustees Dinner

### THURSDAY, FEBRUARY 29

- 7:00 am- 7:00 pm Registration
- 7:30 am- 9:00 am Continental Breakfast for Add-On Seminars and Trustees
- 8:30 am- 5:00 pm Trustees Meeting
- 8:30 am- 5:00 pm **Technology Transfer in Cyberspace: A Multimedia Approach to Doing Business** (Add-On Seminar presented by the LES Electronic Commerce Committee (E-22))
  - Introduction - Varda Main and Dwight Olson
  - Tools for Doing Business: A Live Tour of the Internet* — Varda Main (Los Alamos National Laboratory)
  - Electronic Commerce: We're Almost There* — Edward J. Hendrick Jr. (U.S. West Technologies, Inc.)
  - Coffee Break
  - Agreements for Electronic Commerce* — Curtis E.A. Karnow (Landels Ripley & Diamond)
  - The Laws of Electronic Commerce* — Raymond Nimmer (Weil, Gotshal & Manages and Leonard Childs, University of Houston Law Center)
  - Lunch

*Major Issues of Doing Business in a Multimedia World: Security, Trust, and Authentication* — Dwight Olson (Data Securities International, Inc.)

*Using the Internet for Business Transactions — What's Being Done Today*  
Moderator: Alfred (Buz) Brown (QED Technologies)

Panel: Joseph J. Daniele (Xerox Technology and Market Development)

Michael Odza (Technology Access Report)  
Linda Rowton (Los Alamos National Laboratory)

Coffee Break

*Digital Cash: The IRS Nightmare — or, What It Is and How It Works* — Andy Johnson-Laird (Johnson-Laird, Inc.)

*Electronic Commerce in an International Forum - The Business and Legal Issues Arising From the Conflict Between a Virtual World and a World With Borders* — David MacLachlan (Blake, Cassels and Graydon)  
**Closing Remarks** - Varda Main and Dwight Olson (E-22 Co-Chairs)

8:30 am- 5:00 pm **Licensing and Negotiating Biotechnology: Lessons Learned** Add-On Seminar presented by the LES Biotechnology Committee, E-6

*State-of-the-Art in Agricultural Biotechnology* — James H. Davis (Finnegan, Henderson, Farabow, Garrett & Dunner)

Overview of the Technology — Viewpoint of a Large Company — Simon Bright, (Zencca Plant Sciences)  
 The Changing Marketplace — Viewpoint of a Medium-Size Company — Keith Walker (Mycogen Corporation)  
 Building a Biopesticide Business — Viewpoint of a Small Company — Todd Taylor (Biosys, Inc.)  
 Valuation of Agricultural Technology — Peter A. Fuller (Pioneer HI-Bred International Inc.)  
 Negotiation of Licenses in the Biotechnology Field — Kenneth B. McKay (Sim & McBurney)

7:00 pm-10:00 pm Supper Reception

### FRIDAY, MARCH 1

7:00 am- 9:00 am Continental Breakfast  
 8:30 am- 9:00 am Welcoming Remarks - Gayle Parker, President, LES (USA & Canada)  
 Louis P. Berneman, Meeting Chairman  
 Jay Simon and Lita Nelsen, Program Co-Chairpersons  
 9:00 am-10:15 am What Do We Know About Patent Prosecution Nine Months After GATT? — The Use of Provisional Patent Applications— Ed Gates (Wolf, Greenfield & Saks)  
 10:15 am-10:45 am Coffee Break  
 10:45 am-11:45 am Workshop Session A (Concurrent)  
 Workshop #1 - Licensing Strategies for Small Companies — Amy Porter  
 Workshop #2 - Ethics in Licensing — B.I. (Woody) Friedlander (Venture Insights Group)  
 Workshop #3 - Anatomy of A Software Infringement — Michael A. Lechter (Squire, Sanders and Dempsey)  
 Individual Lunch Plan  
 2:00 pm- 5:00 pm Workshop Session B  
 Workshop #4 - Introduction to Patenting and Licensing — Mark Peterson (Robin Wood Consulting), Jay Simon (Exxon Research) and Elton Dry (Winstead Sechrest & Minick)

12:00 pm- 6:00 pm Explore Salt Lake City and Wasatch Mountain  
 Ski Excursion to Deer Valley  
 Sightseeing trip to Deer Valley  
 Tennis Tournament  
 Individual Dinner Plans

### SATURDAY, MARCH 2

7:00 am- 9:00 am Continental Breakfast  
 8:30 am-10:00 am Life After Downsizing: Leveraging External Sources of Technology — Jay Simon (Exxon Research)  
 10:00 am-10:30 am Coffee Break  
 10:30 am-11:30 am Need It Be War? University-Industry Relations — Bill Davis (Consultant) and Susan Wray (University of Florida)  
 11:30 am-12:00 pm Cash Bar  
 12:00 pm- 1:00 pm Luncheon  
 1:00 pm- 3:00 pm Workshop Session C (Concurrent)  
 Workshop #5 - Protecting Licensing & Commercializing Software — Tom Major (University of Utah)  
 Michael D. Nelson (PartNet)  
 Ryan L. Richards (Novell)  
 Workshop #6 - Protecting Licensing & Commercializing the Human Genome — Kathleen Denis (Allegheny Health, Education, Research Foundation)  
 Cynthia Zarsky (Merck & Co.)  
 John Keller (SmithKline Beecham)  
 Barbara Luther (InCyte Pharmaceuticals)  
 Workshop #7 - Protecting, Licensing & Commercializing Consumer Products — Karen Copenhaver (Testa, Hurwitz)  
 3:00 pm- 3:30 pm Coffee Break  
 3:30 pm- 5:00 pm Workshop Session D (Concurrent)  
 Workshop #8 - Valuing Prospective Technologies — Ashley Stevens (Boston University)  
 Workshop #9 - Using the Internet for Licensing and Business Development — Alfred "Buz" Brown (QED Technologies)  
 6:00 pm-10:00 pm Dinner/Dance

## REGISTRATION

Please complete and mail with appropriate fees to:

LES (USA & Canada) Inc.  
 1800 Diagonal Road, Suite 280  
 Alexandria, VA 22314-2840, USA  
 Telephone (703) 836-3106  
 Facsimile (703) 836-3107

Name \_\_\_\_\_  
 Company \_\_\_\_\_  
 Address \_\_\_\_\_  
 City/State \_\_\_\_\_  
 Zip \_\_\_\_\_ Country \_\_\_\_\_  
 Phone \_\_\_\_\_ Fax \_\_\_\_\_  
 E-mail \_\_\_\_\_

Name of accompanying person(s) \_\_\_\_\_

Fees are refundable through February 22, 1996, subject to a \$50 cancellation fee. One registration covers both registrant and one accompanying person.

### REGISTRATION FEES

Paid by 12/31/95  
 LES Members \$350 \_\_\_\_\_  
 Nonmembers \$395 \_\_\_\_\_  
 Paid between 1/1 - 2/14/96  
 LES Members \$395 \_\_\_\_\_  
 Nonmembers \$445 \_\_\_\_\_

Paid after 2/15/96

LES Members \$450 \_\_\_\_\_  
 Nonmembers \$500 \_\_\_\_\_

Optional:

Technology Transfer in Cyberspace  
 Add-on Seminar \$ 50 \_\_\_\_\_  
 Biotechnology Licensing Add-on  
 Seminar (2/29) \$ 50 \_\_\_\_\_  
 Introduction to Licensing Add-on  
 Seminar (3/1) \$ 25 \_\_\_\_\_  
 LES Youth Pass (Age 5 and older) @\$100 \_\_\_\_\_  
 Name \_\_\_\_\_ Age \_\_\_\_\_  
 Name \_\_\_\_\_ Age \_\_\_\_\_  
 Name \_\_\_\_\_ Age \_\_\_\_\_

Sport (Friday afternoon)  
 Ski-Deer Valley \$ 60 \_\_\_\_\_  
 Sightseeing - Deer Valley \$ 20 \_\_\_\_\_  
 Indoor Tennis \$ 28 \_\_\_\_\_

Special Needs \_\_\_\_\_

Method of Payment:

\_\_\_\_\_ Check # \_\_\_\_\_ Purchase Order # \_\_\_\_\_  
 \_\_\_\_\_ MasterCard/Visa/Amex # \_\_\_\_\_  
 Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_

(Please make hotel reservations directly with Little America Hotel — reservation form on the next page, or call 800-453-9450.)

# THE LITTLE AMERICA HOTEL - Registration

## LES WINTER MEETING

Salt Lake City, Utah

February 29 - March 2, 1996

Please complete this registration and mail to:

The Little America Hotel  
500 Main Street  
Salt Lake City, UT 84101  
(801) 363-6781  
(800) 453-9450

Name \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
City/State \_\_\_\_\_  
Zip \_\_\_\_\_ Country \_\_\_\_\_  
Phone \_\_\_\_\_ Facsimile \_\_\_\_\_  
E-mail \_\_\_\_\_

No. of Rooms	Tower Suites	Rates
_____	No Preference	\$104
_____	One King Bed, Non-Smoking	\$104
_____	Two Double Beds, Non-Smoking	\$104
_____	Accessible room - One King Bed Only	\$104
_____	Non-Smoking Room	\$104
_____	One King Bed	\$104
_____	Two Double Beds	\$104

For Suite information please contact the hotel at (800) 453-9450

One bedroom suites  
Two bedroom suites  
Hospitality Suites (non-bedded)  
Sales Tax

If the room type requested is not available, the next available room type will be assigned. If your group has a range of rates and the rate category requested has been filled, then the next available rate will apply.

Honored Guest Award Number: \_\_\_\_\_

SPECIAL REQUESTS: \_\_\_\_\_

No. of Rooms	Deluxe Gardens	Rate
_____	No Preference	\$89
_____	One King Bed, Non-Smoking	\$89
_____	Two Double Beds, Non-Smoking	\$89
_____	Accessible room - One King Bed Only	\$89
_____	Non-Smoking Room	\$89
_____	One King Bed	\$89
_____	Two Double Beds	\$89

## Salt Lake City Little America's Hotel

Salt Lake City's Little America Hotel is located downtown in the heart of the city's business, historical, cultural, and entertainment district. Seven world-class ski resorts are only 35 minutes away in the grandeur of the Wasatch Mountains. Minutes from the hotel are the Utah Symphony, Ballet West, and the Mormon Tabernacle Choir.

Little America has 850 finely appointed, individually decorated guest rooms with spacious sitting and bedroom areas, Italian marble baths and plush robes. Many rooms are newly remodeled with impressive decor and comfort. Little America offers the finest in ambiance, cuisine, and service. Little America offers excellent indoor recreation facilities including two swimming pools and a health club complete with spa, whirlpool, saunas, and weight and exercise equipment. Shopping for everything from small necessities to exquisite gifts and clothing is available in Little America's unique lobby level shopping mall.

Little America provides complimentary transportation to and from Salt Lake International Airport on regularly scheduled shuttle vans which run on a reservation basis every 30 minutes (on the hour and half hour). A taxi ride to/from the airport is approximately \$10 and just 10 minutes and seven miles away.

Complimentary parking is available to guests.

## LESI Okays Multimedia Group

**BY RICHARD L. DICICCO**  
Chair, LESI Industrial Sectors  
Committee

LES International Delegates approved the charter of the Multimedia Industries Group by unanimous vote on October 27 at their meeting in Orlando, Florida.

The objective of the LESI Multimedia Industries group is to provide members with a business networking forum within LESI and with other multimedia industry associations. This will be accomplished by establishing regional multimedia industrial groups that will attract high-quality members from business as well as maintaining an annotated worldwide directory. Workshops or seminars are conducted every year at LESI meetings, and news about the group is published frequently in the blue pages of *les Nouvelles*.

The fields of interest of the LESI Multimedia Industries Group include:  
Interactive Electronic Products.  
CD-ROM Development and Royalty Structure.

Digital Information Communications.

Entertainment, Sports & Character Licensing.

Software.

Copyrights & Trademarks.

Electronic Commerce.

Music Motion Pictures and Television.

Virtual Reality.

The Co-Chairs of this new LESI industrial sector group are Jean Marie R. Pechette and Stephen Heaton, and the Vice-Chairs are Mark Prinsley and Fred Gregarus.

Activities planned for the coming year include publishing an annotated worldwide directory, four workshops at the LESI Cannes meeting, an add-on seminar on Tuesday afternoon, October 1, 1996, at the annual LES (USA & Canada) meeting in San Juan, and two more publications that can be ordered through LESI's Publications Committee.

LES members throughout the world are invited to join this new LESI group. Contact Jean Marie R. Pechette to place your name on the mailing list, or to become more involved with the group.

## Patents Act Amended In Malaysia

BY CAROLINE FRANCIS  
LES Malaysia

The Patents Act 1983 as amended by the Patents (Amendment) Act 1993 and the Patents (Amendment) Regulations 1995 came into force on August 1, 1995, in Malaysia. The Regulations give effect to the changes in the Act. Some important Regulations affecting the processing of the patent applications include:

### PRELIMINARY AND SUBSTANTIVE EXAMINATIONS

The request for preliminary examination need not be filed by the applicant. The Registry of Patents will carry out its own searches and will issue a report. On receipt of the report the applicant now has an option to file the request for substantive examination or to file the request for a modified substantive examination.

The request for the substantive examination or the request for the modified substantive examination must be filed upon receipt of the preliminary examination report from the Registry and within two years from the filing date of the application.

The applicant may apply to the Registry of Patents to defer the substantive examination or the modified substantive examination. The said request for deferred substantive examination must be made within three years from the filing date of the application and the request for the deferred modified substantive examination must be filed within four years from the filing date of the application.

Together with the request for the modified system of examination, the applicant must submit the certified copy of the patent granted by the UK, U.S., Australian or European Patent Office and the specification in the Malaysian application must conform with the specification in the said granted patent.

### CONVERSION OF APPLICATIONS

The Regulations also provide that upon the payment of the prescribed fee, an application for grant of a patent may be converted into an application for grant of a utility innovation and vice-versa. The Registrar will examine the request for conversion and if satisfied will allow the said request.

### AMENDMENTS

Amendments involving correction of errors, changes in the names and addresses of the patentees, clerical errors or obvious mistakes in the description, the claims and the drawings may be made either prior to or after the grant of the patent by making a request to the Registrar in the prescribed form.

## Annual Meeting Set in Puerto Rico

The 1996 Annual Meeting of LES (USA & Canada) will be held at the El Conquistador Hotel in Las Croabas, Puerto Rico, east of San Juan at the northeast tip of Puerto Rico. This much-anticipated event will run from Sunday, September 29 through Wednesday, October 2, with a focus on the theme "How Intraglobal Cooperation Is Changing the Face of Licensing." A meeting of the LES International Board of Delegates will take place on October 4-5.

The El Conquistador is located at the dividing point between the Caribbean and the Atlantic Ocean. This magnificent site provides excellent meeting facilities, as well as an abundance of recreational opportunities during the off-hours. For those

seeking to visit other Caribbean Islands before or after the meeting, many islands are a short flight or boat ride away.

American Airlines has been chosen as the official airline of the 1996 Annual Meeting. Puerto Rico is readily accessible to most of our membership, with San Juan serving as a major hub for American. A discount of 5% from the lowest published airfare to San Juan is being offered when you make reservations with American Airlines. Call your travel agent or American Airlines (1-800-433-1789) and identify Star No. S 0196AT to receive the discounted rate.

*les Nouvelles* will carry further meeting information in the coming months. For additional information, contact Meeting Chair Bill Lee Jr. at (312) 368-6620.

## USA/Canada To Meet in Asheville

"Information Superhighway Applications in Healthcare" is the theme for the LES (USA & Canada) Spring/Summer Meeting May 2-4 in Asheville, North Carolina. Meeting Chair Michael D. McCoy says the meeting will focus on one of this decade's most timely and talked about topics.

On Thursday, May 2, the Board of Trustees meets and an opening reception held later in the day. Friday, May 3 and Saturday, May 4 will include meetings, workshops, networking opportunities and social gatherings.

A sub-theme of "Telemedicine for Tomorrow" will run throughout the pro-

gram, as world-class speakers cover such areas as Healthcare Delivery, Record Keeping, Standards for Uniform Availability, Access to Records, and Security & Privacy issues. Potential speakers and facilitators are invited to contact Program Chairpersons Holt Anderson and Julie Oliver, or Workshop Chair Ken Sibley.

The venue will be the Grove Park Inn. Uniquely nestled in the beautiful Blue Ridge Mountains, this Inn will provide the perfect setting for watching the hills come to life with the budding of springtime. Look for further information and registration details in the March *les Nouvelles*.

## PLACEMENT OPPORTUNITIES

### NEEDED—OPENINGS FOR QUALIFIED APPLICANTS —RESUMES FOR THOSE SEEKING NEW POSITIONS

Companies or firms looking for licensing or technology transfer personnel are invited to send their requirements to the Chairman of the Placement Committee at the address below.

The services of the Placement Committee of LES (USA & Canada) are available to LES members looking for positions in the licensing or technology transfer fields. Please send your name and address to the Chairman of the Placement Committee:

David E. Broome, Jr.  
Office of Legal Affairs  
Box 7008, 305 Holladay Hall  
N.C. State University  
Raleigh, NC 27695-7008

The Placement Committee sends applicants a monthly mailing of positions available. It is then the responsibility of the applicant to make appropriate contacts.

LES members seeking employment opportunities may list their availability

with LES Online through a new service offered by the A-12 (Placement) Committee. Subscribers to LES Online may then review your notice and contact you directly. Anyone wishing to place an announcement in the registry should send: (a) a brief description of the type of position sought, (b) a summary of his/her qualifications, and (c) an address where a prospective employer can reach the candidate, to the Co-Chair of the LES Placement Committee:

Linda J. McCormick, President  
McCormick Technology Management  
331 Fairmont Avenue  
Ottawa, ON K1Y 1Y6  
CANADA  
Tel. 613-729-6194  
Fax 613-729-0527

At the members' request, listings may be placed anonymously with LES Online, but the lister's name must be disclosed to Ms. McCormick to be sure the service is provided only to members of LES. In addition, the service is available only to members seeking employment, and not to those seeking to obtain consulting opportunities.

# Societies Gain New Members

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# INTERNATIONAL DELEGATES IN ORLANDO



1995 LESI President Norm Jacobs leads discussion; also shown at table (from l.) Cesar Ramos, LES Mexico; Gert Danemann, Vice-President; Gary Lande, Treasurer; Rodney DeBoos, Secretary; (r. of Norm Jacobs) Jeremy Brown, President-Elect; Platon Mandros, Vice-President.



Jeremy Brown, who became President of LESI at ceremonies at a dinner for Delegates in Orlando on October 28, reports to Delegates.

## DELEGATES TACKLE FULL AGENDA

LESI delegates meeting two days in Orlando, Florida, met as a committee of the whole in half-day sessions to resolve Society Issues, and then broke up into its committees to attack problems related to specific areas.

At the Saturday evening dinner concluding the meeting, Jeremy Brown became President of LES International for 1996, succeeding Norman A. Jacobs. See Mr. Brown's President's column on Page 1.



Delegates from nearly all of the 27 Societies gathered around all four sides of a large conference setting to conduct LESI business.



*LES (USA & Canada)'s 1995 Annual Meeting had one of the largest registrations on record.*

## SCENES FROM LES (USA & CANADA) ANNUAL MEETING



*Trustees decided a wide variety of issues in day-long session on October 26.*



*President Gayle Parker leads Trustees in Orlando.*



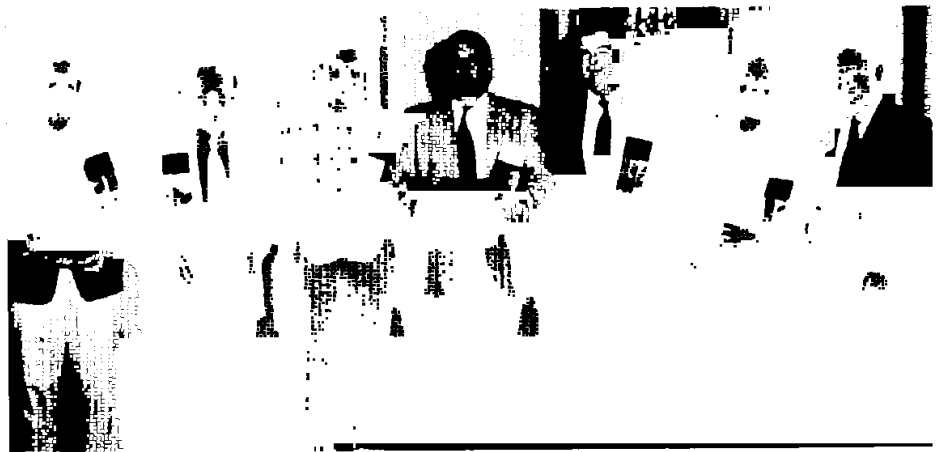
*Plenary sessions included this panel discussion led by Richard Razgaitis (l.).*



*Treasurer Grudziecki reports to members.*



*Secretary Murtha reports at business meeting.*



*Annual Meeting Committee members were honored with special plaques.*

reforming, Shougang has kept a profit increase of 20% each year, therefore the accumulation of funds has been greatly increased.

Our self-accumulated fund has also increased from 40 million RMB to 30 billion RMB in 1993. At the same time, foreign currency earning has increased from zero to 630 million RMB in 1993. From 1979 to 1990, Shougang has carried out 108 key-projects, and there were 45 projects, each investment over 1 million RMB, 17 of which was completed through importation or partly through importation.

2. Lay emphasis on the digestion, absorption, and improvement of imported technology.

Whether a developing enterprise can achieve its goal after the importation of advanced technology greatly depends first on the technology level and applicability, and then on its digestion and absorbing ability. If the equipment, detecting sensors, tools, parts, materials and management competence, and technical levels can't meet the requirements, the imported technology can't be in full play.

While introducing the foreign licensed technology and know-how, Shougang lays emphasis on its ability to adopt and absorb the advanced technology instead of introducing the complete sets of equipment. Since 1979, 426 advanced technology out of a total of 444 items introduced from overseas are

not complete sets of equipment, with the concluded volume of US\$ 420 thousand.

Shougang has not only mastered the introduced technology promptly, but succeeded in enhancing the quality of its staff by means of taking part in the design, manufacturing, erection as well as commissioning of projects actively.

Shougang also attaches much importance to the renovation and improvement of introduced technology on the basis of adoption and absorption of the world-advanced technology. An example is the renovation and modification made in the slitting technology and eight-strand billet continuous caster technology after its introduction to meet the special requirement of Shougang and to reach the world-advanced level.

3. Taking the comprehensive advantage of multitrades.

Shougang Corporation is a super-giant complex with the production of iron and steel its main line of business, while engaging in the circles of machinery, electronics, mining, shipping, construction, financing, and trade. Shougang lays great emphasis on taking advantage of its comprehensive power in the process of introduction of technology. The designing system of Shougang would conduct the modification accordingly after the technological software was introduced from abroad. For exam-

ple, the machinery processing department provides the required equipment, the electronics department offers automatic control equipment, and the construction department pursues the installment and commissioning. In this way, Shougang can succeed in mastering and adopting the new technology. This results in upgrading the level of technology.

4. Upgrading the comprehensive quality of our staff members.

Human resources are the most important factors in developing the technology. By providing the members of staff with various professional training and encouraging their initiative in learning and knowledge and technology, Shougang Corporation has greatly upgraded the quality of its staff. Currently, 50% of its 270,000 employees has acquired the level of secondary education, and about 24% has achieved the level of modern professional education. Besides, 27,000 employees have been awarded the title of professional post of assistant rank. Further, Shougang has established 72 research institutes in its subsidiary companies and plants. Simultaneously, a large number of domestic and overseas experts has been invited to make contribution to the development of Shougang Corporation, which has caused the quality of staff and the level of scientific research and technology to be upgraded.