



LICENSING EXECUTIVES SOCIETY
SOUTH AFRICA

Advancing The Business of Intellectual Property Globally

ONE DAY

LICENSING COURSE

12 March 2020

ADAMS & ADAMS ATTORNEYS OFFICES, SANDTON

2nd Floor, 34 Fredman Drive (cnr 5th Street), Sandton, 2146



About LES:

The International Association (LESI) and the South African Society (LES) found its roots in the original national society founded in the United States of America in 1965.

Since that time national and regional societies have emerged on all continents. Today LESI is the foremost organization in the field of technology licensing. There are today 29 national and regional societies embracing some 10,000 members from 62 different countries. LESI International has been consulted by and is in ongoing contact regarding technology transfer with the United Nations, in particular, regarding the United Nations development programme; the World Intellectual Property organization (WIPO); the European Union; the Organisation for Economic and Commercial Development; the International Chamber of Commerce; and many national Intellectual Property Registries.

The South African Society (LES) is one of many national and regional societies which make up the international association or family of LES Societies constituting the Licensing Executives Society International (LESI). The individual societies are associations of members having common interest in transferring technology in the broadest sense of that term. These, like the South African Society, are thus composed of persons who are business men; managers; scientists; engineers; academics; government officials and lawyers, in particular, intellectual property lawyers and patent attorneys and agents.

The LESI, with its diverse membership, is unique among all professional associations in that it does not focus solely on the legal aspects of intellectual property, but rather providing worldwide training and educational programmes directed towards powering the intellectual capital engine of the global knowledge economy where we are living in today. We are learning that in the highly industrialized economies of Asia, Europe, North and South America, we are quickly evolving a new economic and social structure where knowledge and innovation are valued above all else.

THE AIMS OF THE SOCIETY

- To encourage high professional standards among individuals engaged in the transfer and licensing of technology.
- To assist the members in improving their skills and techniques in licensing through self education; attending educational activities; and through their exchange of information, both personally and by way of publications.
- To inform the public, the business community and governmental and international bodies about the economic significance of technology licensing and the importance of high standards required in the field.
- To make available to its members the latest, most accurate information on the subject of technology licensing.

The transfer of intellectual property and/or intellectual capital assets is the lifeblood of the new global order and LESI, as the heart of the family of LESI societies worldwide, must assume much of the responsibility of keeping that lifeblood flowing.

The environment in which licensing executives find themselves today is one where the only certainty is rapid and continued change and the window of opportunity is often small or too small. Licensing is the key factor in successfully exploiting new advances in science and technologies and innovators whether they are individuals, major or small corporate entities or groups, universities or government bodies are increasingly looking to the membership of the LESI family of societies to help them fully exploiting their intellectual capital assets while, at the same time, protecting their intellectual property rights in this fast moving global market. Consequently, licensing and technology transfer and asset management, have become the fundamental engines of growth in these dynamic markets.

<http://licensing.co.za>

Clive

ERASMUS

IP LEGAL ADVISOR

SASOL



Clive Erasmus completed his Bachelors and Masters degrees in Chemical Engineering at the University of Cape Town in 1998 and 2000, respectively. He joined Sasol in 2001 as a process engineer and after taking an interest in the intellectual property, later transitioned into the role of IP technical advisor. Clive completed his LLB cum laude through Unisa, graduating in 2011. He served articles at the law firm Adams & Adams and was admitted as an Attorney of the High Court of South Africa and registered as a Patent Attorney in 2012.

Clive has worked in the IP field since 2006, first in a technical advisory capacity and since 2009 (partway through his LLB) in a legal advisory capacity. Clive has gained experience in local and foreign patent prosecution, intellectual property portfolio management, drafting and negotiating of IP-related contracts, IP strategy development and IP risk identification and management. Clive has been a member of LES South Africa since 2013 and was elected to the Board of LES South Africa in 2016. He is presently the Treasurer.

Johan

DU PREEZ

PARTNER

ADAMS & ADAMS



Johan is a lawyer specialising in Intellectual Property Protection in South Africa and African with particularly expertise in all areas of Trade Mark Law, from brand creation, clearance searches; local, African and overseas trademark filings strategies, filing for the protection through the entire process to registration and certain areas of the practice including the running of maintenance programs to commercialization and licensing of intellectual property.

He particularly enjoys advising new start-up business, or businesses adopting a new focus, such as exporting or inline product extensions on how to go about it in especially South Africa and Africa.

Johan is a qualified South African attorney and have been practising in this area of law since 1986. He is one of two South African delegates of LESI and due to my involvement of LESI (Licensing Executive Society International), he was the President of the South African chapter from 2000–2002 and again from 2009–2011, he also serves as legal advisor to the South African Small Business Chamber.

Alan

LEWIS

**PROPRIETOR**
LEWIS IP

Alan Lewis was a partner of the prestigious South African IP law firm Adams & Adams, in its Johannesburg office and is now proprietor of a boutique practice, Lewis IP, which specialises in IP commercialisation.

Alan has a BSc with Physics and Maths as majors, a BSc (Electrical Engineering) (cum laude) and a BProc law degree. He is a patent attorney and was a partner of Adams & Adams from 1977 to 2014. He is also a notary public.

He was a member of Adams & Adams patent department and was involved in transactional aspects in regard to patents, registered designs and copyright. As part of his practice he valued IP, both locally and internationally, for a variety of purposes, including Exchange Control Approval, acquisitions, mergers and financing

He has been a member and is actively involved in the Licensing Executives Society. He was President of the Licensing Executives Society International in 2011, having been President of LES South Africa in 1994/95 and again in 2005/6 and a Vice President of LESI from 2005 to 2007. He was a Certified Licensing Professional and acted as an adviser to various African countries in regard to commercialisation of IP. In addition he has been included in the IAM Patent 1000 list for 2014 and a number of preceding years.

He was involved in several due diligence investigations, in particular for Net 1 UEPS when it listed in the US, is also the contributor for Trade Secrets Throughout the World (published by Thomson West) in regard to South Africa and was a member of an expert group assisting UNCITRAL in formulating guidelines on security interests relating to IP. He has also presented numerous papers at conferences and seminars in South Africa and overseas on a variety of IP, licensing and valuation issues and has conducted training courses in regard to the management of intellectual assets.

Danie

DOHMEN

**PARTNER**
ADAMS & ADAMS

Danie Dohmen is a partner at Adams & Adams in the patent litigation section. He specialises in patent and design litigation, commercialisation and opinion work. Danie has for a number of consecutive years been ranked in tier 1 for patent litigation in South Africa.

Danie holds a BSc degree in physics and chemistry and an LLB degree. He is admitted and registered as an attorney of the South African High Court, a patent attorney and a notary public. He represents multinational and national clients, and although his primary focus is in the pharmaceutical field, he acts on behalf of clients in a diversity of fields, including agriculture, agro chemical, mining, manufacturing, transport, security and safety. Danie further acts in multi-jurisdictional patent and design litigation in several African countries.

Danie has litigated a number of cases to the South African Court of Appeal ("SCA") and the Constitutional Court. Many of his matters are reported and are considered leading patent law cases. Danie has recently represented successful parties in the SCA and before the Constitutional Court in cases which set the current South African law on issues of inventiveness, clarity, interim injunctions in patent infringements, contributory patent infringement, the role of public interest in interim injunctions on patents for life saving drugs, evidentiary requirements to prove patent infringement and requirements for divisional patent applications.

Danie also plays an active role in IP policy issues on a national and international level and has represented national and foreign manufacturing groups in both national and international meetings, workshops and seminars on IP policy.

Danie is a director of the Licensing Executives Society of South Africa, a member of the American Intellectual Property Law Association and a fellow of the South African Institute of Intellectual Property Law, where he sits as chairperson of its Patent and Design Law Committee. He is further a lecturer and examiner for the Patent Examination Board of South Africa.

WORKSHOP AGENDA

08:00 - 08:30

REGISTRATION AND COFFEE **WELCOMING AND INTRODUCTION**

08:30 - 09:30

SESSION ONE **INTELLECTUAL PROPERTY BASICS**

Clive Erasmus and Danie Dohmen

- Intellectual Capital
- Intellectual Property
- Know-how, knowledge and main classes of Intellectual Property

09:30 - 10:15

SESSION TWO **INTRODUCTION TO LICENSING**

Clive Erasmus and Danie Dohmen

- What is technology?
- Intellectual Property Management and Technology Transfer
- The business case for licensing as a means of leveraging your IP Portfolio

10:15 - 11:00

SESSION THREE **BASIS OF LICENSING AGREEMENTS**

Danie Dohmen and Alan Lewis

- Licensor's aspirations
- Licensee's aspirations
- License types
- Basic competition law considerations

11:00 - 11:15

TEA BREAK

11:15 - 12:00

SESSION FOUR **BASICS ON LICENSING**

Kevin Dam and Danie Dohmen

- Enforceable IP rights linked to patents, trademarks, confidential know-how or the like
- Incorporating Branding and Trademarks into your licensing strategy

12:00 - 12:45

SESSION FIVE

DETERMINING REASONABLE LICENSE FEES AND ROYALTY RATES

Alan Lewis and Kevin Dam

- Running royalties
- Lump-sum license fees
- Hybrid royalty/licence fees structures
- 25% rule
- Indirect remuneration
- Risk versus Reward

12:45 - 13:30

SESSION SIX

MANAGING LICENSING RISKS

Kevin Dam and Danie Dohmen

- 3rd-party patent infringement
- Collection of royalties/license fees
- Product liability
- Unlicensed competition
- Force majeure

AFTERNOON PROGRAMME

13:30 - 14:00

LUNCH

14:00 - 16:30

LICENSING GAME

Alan Lewis/Danie Dohmen / Kevin Dam /

A simulated exercise on negotiating a successful licensing transaction. Pertinent facts will be supplied to delegates before the seminar date.

Please provide the required contact details on the attached registration form to enable us to send these facts to you prior to the workshop.

16:30 - 16:45

WRAP-UP & CLOSURE