The PTC Research Foundation— New Location, New Programs, New IDEAs

ALAN A. SMITH*

Let me start by noting that I have a very flexible presentation. If there is lots of time available, I can talk about The Patent, Trademark and Copyright Research Foundation of The Franklin Pierce Law Center, which is our full, official name. But if time is short, I can simply talk about the PTC.

In a sense, I'd rather do that anyhow, and not only to save time. For while as a research organization we continue our interest in Patents, Trademarks and Copyrights as essential instruments for the protection of industrial and intellectual property under our free enterprise system, we intend also to expand the range of our interests much more broadly into the basic problems of invention, innovation and the many roles of technology in business.

So perhaps, at some time in the future, we will even want to back up the acronym PTC with different words. As a starter, I will offer Property, Technology and Commerce, but no doubt any of you can do better, and I invite your entries in the contest, at your leisure.

In any event, I submit that having a flexible talk is an innovation in programming. But I submit also that innovation, sometimes in

* Director, The PTC Research Foundation. This article is a composite of introductory remarks delivered to the EEC Conference reported on herein and several talks given by Mr. Smith before professional groups which had expressed interest in learning about the present status and future plans of the PTC.

obscure ways, is part of the stock in trade of both the PTC and The Franklin Pierce Law Center. For I find from the archives that it was none other than Franklin Pierce, fourteenth President of the United States, 1843-1857, and the only U.S. President from New Hampshire, who officially introduced the Christmas tree to the United States of America. German settlers, mostly in the mid-West, brought the custom with them, but it wasn't until Franklin Pierce illuminated a Christmas tree in the White House that there was any even semi-official recognition of what had been considered up till then a basically pagan custom.

But rather than dwell on Franklin Pierce, I should tell you something about the Law Center named after him, and its PTC Research Foundation. First, a little history.

History

Most of you were no doubt familiar with the PTC when it was associated with The George Washington University in Washington, D.C. The story goes back to February 1949, when the American Patent Law Association, by resolution at its stated meeting and subsequently by referendum vote, recognized a need for research and education, under university auspices, in the field of patent and related systems of law. The George Washington University agreed to undertake the establishment of an appropriate organization, later endorsed by the American Bar Association and 15 of the then 18 state and city patent law associations.

I am fascinated to note that, in its first incarnation, the PTC was known as *The Patent, Trademark and Copyright Foundation.* It was not until September 1, 1963, that the name was changed to *The PTC Research Institute* of the George Washington University; so now, in our new location, we have our old foundation name back again!

In any event, over the next fifteen years or so, the PTC made substantial progress in its many programs of research, education, awards for creativity, and well-deserved corporate support. The Advisory Council came to include some of the leading figures in the whole country; the research staff were in large part leaders, each in his own field of investigation into the realities of industrial and intellectual property systems. Annual conferences, and the ceremonies relating to the presentation of the Kettering award and the Inventor of the Year award, attracted national attention.

All these accomplishments, I want to point out, redound primarily to the credit of one man—Professor L. James Harris, formerly

Director of the PTC Research Institute. Many of you know him, and you will share with me the conviction that if it hadn't been for his personal dedication, there would be no high reputation of the PTC, for those of us who are now concerned, to inherit.

Despite that high reputation, it became apparent to the George Washington University along about 1970 that the mechanics of PTC operation would have to change, to keep pace with changes in the University imposed by changes within society itself. So the Advisory Council of the PTC established within itself a Transition Committee, and the question it asked was: What new form should the PTC take? At that stage, I had the honor of being invited to work with the Transition Committee, at the suggestion of its former Chairman, Earl P. Stevenson, then Chairman of the Board of Arthur D. Little, Inc., my old alma mater.

The first solution proposed was—an independent, not-for-profit research institute. And we set about raising funds to bring that transition about. Interestingly enough, however, the reaction from members of the Institute was a resounding no! Evidently, they simply didn't want another new patent research organization which, it appears, they would regard as just another lobbying group, no matter how meritorious its programs. Over the years, the PTC had built up a substantial reputation for academic impartiality, and it was the opinion of the members that it ought to be preserved at all cost.

Consequently, our second approach was to search for an alternative university sponsor. To make a long story short, we found it in the Franklin Pierce College and its new Law Center, and I should tell you something about them.

Franklin Pierce College
Franklin Pierce Law Center

Franklin Pierce College was founded in 1962 by the man who is still its able President, Frank S. DiPietro, and located in the town of Rindge in the Southwestern corner of New Hampshire. It is a fully accredited non-sectarian coeducational institution of higher learning, with an undergraduate enrollment of more than 900 students. The student body comes from all over the United States and a few foreign countries although, as you can imagine, the College serves primarily the New England region, plus upstate New York.

The Law Center, the first graduate program of Franklin Pierce College, is located at Concord, New Hampshire, the state capital.

Like all law schools, the Franklin Pierce Law Center offers a general graduate program of instruction leading to the Juris Doctor degree, through a three-year course of full-time study and legal internship. The Dean of the Law Center is Robert H. Rines, probably well known professionally to many of you as a patent attorney with offices in Boston. The innovative programs of the Law Center reflect, in large part, Bob Rines' personal interest in the problems which arise at the interface between law and technology, and the academic atmosphere at the Law Center—because of those interests—is an ideal one for nurturing the further growth of the PTC.

Let me illustrate the point by quoting one paragraph from the 1974-75 information bulletin of the Law Center:

> In addition to affording an opportunity for a legal education that can prepare a student for a wide variety of professional careers, the Law Center sees a responsibility as a new school to make a significant contribution to legal education and research in this country. In the past, no law school has taken on, as a major concern, the impact of technological breakthroughs of the Twentieth Century on our legal system and the relationship of the United States with other nations. The vast changes brought about or made feasible by scientific and engineering advances vitally affect the premises and applications of health and safety laws, antimonopoly and fair trade legislation, international trade agreements and other treaties, as well as the laws that establish and protect the proprietary rights of innovators and creators. The technological capabilities for mass transportation, space exploration, environmental protection and pollution control, and harnessing of new energy sources, are only a few examples of the technological innovations that call for comparable legal innovations to realize their benefits for the well-being of the community. The achievement of just outcomes in legal decision-making itself may be greatly improved by the wise and creative use of data processing and retrieval systems and other new tools from the sciences"

The PTC Research Foundation

Now I should turn to the PTC itself. I mentioned that, beginning in 1970, the Transition Committee became concerned with the problem of finding a new and appropriate academic location for the PTC program. During the course of the search, I talked with Bob Rines, among many other people, and he told me about his plans for the Law Center, still in the formative stage. By the middle of 1972, PTC activities at the George Washington University had come to an end, but the Law Center was still on the drawing board. So the Transition Committee asked George Washington to put the affairs of the PTC in escrow for a year, and that was done.

Late in 1972, arrangements were concluded for the Law Center to open its doors to students in September of 1973, so it became apparent that the PTC would have a viable new home. Accordingly, an appropriate new Declaration of Trust for the PTC was worked out, the assets were transferred to the Franklin Pierce College as the parent organization, and the PTC—again a research *Foundation*—was back in business.

The best description of that business I can give you, I believe, is embodied in the Statement of Purpose for the PTC dated November 1, 1973 so let me just read it to you now:

> The PTC Research Foundation is now established at the Franklin Pierce Law Center as "a continuing foundation for research and education relating to industrial and intellectual property, including patents, trademarks, copyrights and scientific and technical information. . . ." (Declaration of Trust)
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> More specifically, the Foundation fosters research, education, training, instruction, knowledge and publication in the fields enumerated above, with faculty and students of the Law Center participating in the Foundation's programs, as part of the Center's practical training. Research projects will often be carried out jointly with other institutions of higher learning and, in addition, authorities in the Foundation's fields of interest will contribute as Research Associates and Consultants. The Advisory Council, comprising leaders in industry, law and the professions who are concerned with innovation, will work with the Dean of the Law Center and the Director of the Foundation to help establish overall policy.
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> The Foundation has taken into its Trust the assets of the PTC Research Institute of The George Washington University, and will continue many of the Institute's programs, including publication of the journal IDEA. New projects will be directed toward solving contemporary problems related to intellectual property through what Professor L. James Harris, former Director of the Institute, has called:
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> > ". . . objective research and education in the fields of patents, trademarks, copyrights, and other aspects of industrial-intellectual property, such as invention, innovation, and related trade practices."
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> The business community, and the concerned public, must have truly objective information about the relationship between the United States Patent, Trademark, and Copyright systems and the antitrust laws, the tax laws and other laws, and contemporary court and administrative decisions and policies which affect trade practices, the arts and the innovative process, as well as the posture of American industry in domestic and international competition.
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> It is imperative that such information, gained through impartial research, be made available, through publication and otherwise, to help in the formulation of sound national policies concerning intellectual property. Further, research results in this field should be at the command of those who serve and those who will serve as administrators and officials of government, business enterprises, and regulatory bodies of the future.

> The Franklin Pierce Law Center, with its unique program of multi-disciplinary, legal/technological training, will meet the academic requirements for understanding, as well as provide for "internship" in the solution of contemporary problems, both national and international in scope. The programs of the PTC Research Foundation will comprise "laboratory research", with emphasis on the publication and dissemination of significant new results.
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> To quote from Dean Robert H. Rines of the Law Center:†
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> > ". . . invention, patents and innovation cannot be treated apart from their social, political and economic environment - - - - - To review the principles of patent law without delving into the interplay of many aspects of our society would be to discuss a theoretical, nonexistent system."
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> The basic purposes of the PTC Research Foundation are thus, in an academic, though practical atmosphere, to study and report upon the existing practical systems for dealing with industrial and intellectual property, and to identify current problems and their possible solutions, to the benefit of business, the inventive community and the public at large.

Now how do we achieve the goals we have established for ourselves, continue the programs of the PTC, and even expand upon them? I think I should give you brief answers under three categories—research, education, and people.

Research

The *research* activities of the PTC are of course inherent in the name of the organization itself and the concepts which underlie it. We have felt strongly that we should get research going as soon as possible, even in advance of receiving the substantial supporting funds which we anticipate during the coming years.

So we have gotten started by the device of launching cooperative research endeavors with other educational institutions—to start with, on a very modest basis. Three projects are being conducted jointly with M.I.T., and one with the University of Massachusetts. Let me review them briefly:

1. The Patent System and Innovation:

Seniors and graduate students in the Electrical Engineering Department at Massachusetts Institute of Technology (MIT) who are taking courses dealing with innovation have started a joint research project with law students at the Franklin Pierce Law Center. Primarily, they are updating and quite extensively expanding upon earlier statistical information appearing in IDEA on the

† R. H. Rines: *Create or Perish,* Acropolis Books, 1969; permission, M.I.T. Press.

actual workings of the patent system of the United States. The project includes in-depth probing of who is actually using the patent system, for what purposes, with what attitudes, and with what degree of success or lack of success. In addition, with the assistance of the Academy of Applied Science, the students of both institutions hope to develop detailed case studies on the problems of innovation, primarily among the newer-technology companies in the New England environment. Findings will be published in future issues of IDEA.

2. The Role of the Technical University in Aiding Innovation:

At MIT, Professors Y. T. Li, George Newton and Francis Lee are actively conducting courses in innovation, to carry inventive and entrepreneurial students, in real-life activities, through the development of inventive ideas to actual reduction to practice and introducing the developments into the market place by licensing or even forming new companies. Professor Thomas Field, Dean Rines of the Franklin Pierce Law Center, and PTC Research Advisor Harry Saragovitz, with students, are serving as the legal inventors of a flexible system for administering the legal aspects of this program.

3. Communication Problems Between the Legal Community and the Scientific-Engineering-Technological Community:

The PTC is providing auspices for defining fruitful areas of innovation and data-taking in a three-way study of this problem, involving technical, behavioral and legal investigations at MIT, headed by Professor J. D. Nyhart. Other direction comes from Associate Dean Robert M. Viles and Instructor Joseph Dickinson of the Law Center; and Robert Bigelow, Esq. of the American Bar Association Law and Technology Committee. As a member of the PTC, I shall also be aboard this project, which is looking towards a working conference to define the problem areas and lines of attack for study.

4. Business Failures Among Innovators:

Some small, high-technology businesses fail—not necessarily because the inventions they are promoting have no merit, but because something goes wrong in the process of innovation or doing business, which is to say, commercialization. Question—given sufficient hard data concerning business failures, particularly among the smaller innovators, could computer simulation be used to develop a useful model of the process? If so, could the courts use a computer model to judge the merits of alternative plans for

reorganization? Could the data suggest good ways to administer bankruptcy proceedings, SBA and banking financing considerations, and the extension of tax relief, among other matters?

Answers to these important questions are the goal of a joint project between the PTC Research Foundation and the University of Massachusetts, that has already started. Directing the work at the University of Massachusetts is Professor Kenan Sahin of the Department of Management. Investigators for the PTC will be headed by Associate Dean Robert M. Viles of the Franklin Pierce Law Center, who is most anxious to inject into the computer modeling the legal restraints upon business operations, including bankruptcy concepts. Professor Viles joined the Law Center following his work as Research Director at the U.S. Commission on Bankruptcy, and he is anxious to try out new proposals in this area on the computer. Results of the investigation will be published in future issues of IDEA, and/or reported during special workshop conferences.

In fact, I should also mention another joint project—this one not with an educational institution, but with the consulting firm Harbridge House in Boston, working under a grant from the National Science Foundation. The purpose of this one is to determine the extent to which the availability of protection for intellectual property affects or does not affect the utilization of innovations. Appropriate questionnaires have been mailed out to 550 presidents of companies producing goods and services in each of the three industrial markets; energy, public health and pollution. Preliminary results are now being worked up.

Finally, another new project, since it illustrates one of our basic beliefs—that research in our field, while it should remain academically impartial, should nevertheless be as practical as possible. The question is very close to that raised by many industrial companies: Is patent protection in *Eastern* Europe really worth the cost? The problem faces a number of our members in very specific ways —perhaps it faces you as well—and with the help of some of our research associates, plus special corporate funding, we want to launch the appropriate investigation during 1974.

Education

Let me talk now about *Education* as the second of those three categories. First, we see publication as crucial to our whole educational program—what good does it do to conduct research if the results are never published?

Our major publication will be the law journal IDEA, the PTC Journal of Research and Education. As many of you know, it started publication in June 1957 with Vol. 1, No. 1, and it continued through the Conference Number of Vol. 15 at the end of 1972. Then came the escrow period, and the eventual transfer of assets from George Washington to the Franklin Pierce Law Center; among those assets was IDEA.

The first new issue of IDEA will be the Conference Issue of Volume 16, featuring the proceedings of our Fall Conference held in Concord, New Hampshire, October 31-November 4, 1973: Future American Trading in the EEC. That Conference Issue is scheduled for publication early in 1974, and we plan two more issues during the remainder of the calendar year. Manuscripts are in hand, and our Editorial Advisory Board is reviewing them but, I should add, the Board welcomes further submissions so, if you have appropriate material in process, we will be glad to hear from you.

During 1975 and thereafter, our plans call for returning to the customary publication rate of four issues plus the Conference Number each year. In that effort, we will have the benefit of cooperation from the Academy of Applied Science, an organization which is also much concerned with innovation, and which maintains offices both at the Law Center and in Boston. But meanwhile, in advance of the full publication rate of the journal IDEA, we have also launched our newsletter IDEAs, to keep our present and former members, and many friends of the PTC, up-to-date on our progress.

I should go back for a minute and say that our Fall Conference, which I mentioned briefly, represents the second of our educational endeavors. We expect to continue such public sessions in the future, as the PTC Research Institute did so well in the past, as a most important part of our overall goal of research and education in the field of industrial and intellectual property.

People

For the third category, I want to mention *people* as being most important to us in determining our future progress. We have of course the backing of the President and Trustees of Franklin Pierce College, of Dean Rines, Associate Dean Viles and the entire faculty of the Law Center. We have a long list of potential Research Associates—men who worked with the PTC in the past and are anxious to do so in the future, as soon as we can get research

programs off the ground. We have our five-man Editorial Advisory Board with its Chairman, Harry Saragovitz, who manages our Washington Office. And we have a small but select Advisory Council including, I am delighted to say, three men who served on the Transition Committee for the PTC Research Institute—Earl Stevenson, whom I have already mentioned, John Green, formerly head of OTS in the Department of Commerce, and Ted Bowes, now Executive Director of IPOA.

Finally, we have our membership—about 50 corporate members so far, and another 50 who are either individuals or representatives of law firms. We are delighted to have them with us and we naturally hope they will be joined by many others during the years to come.