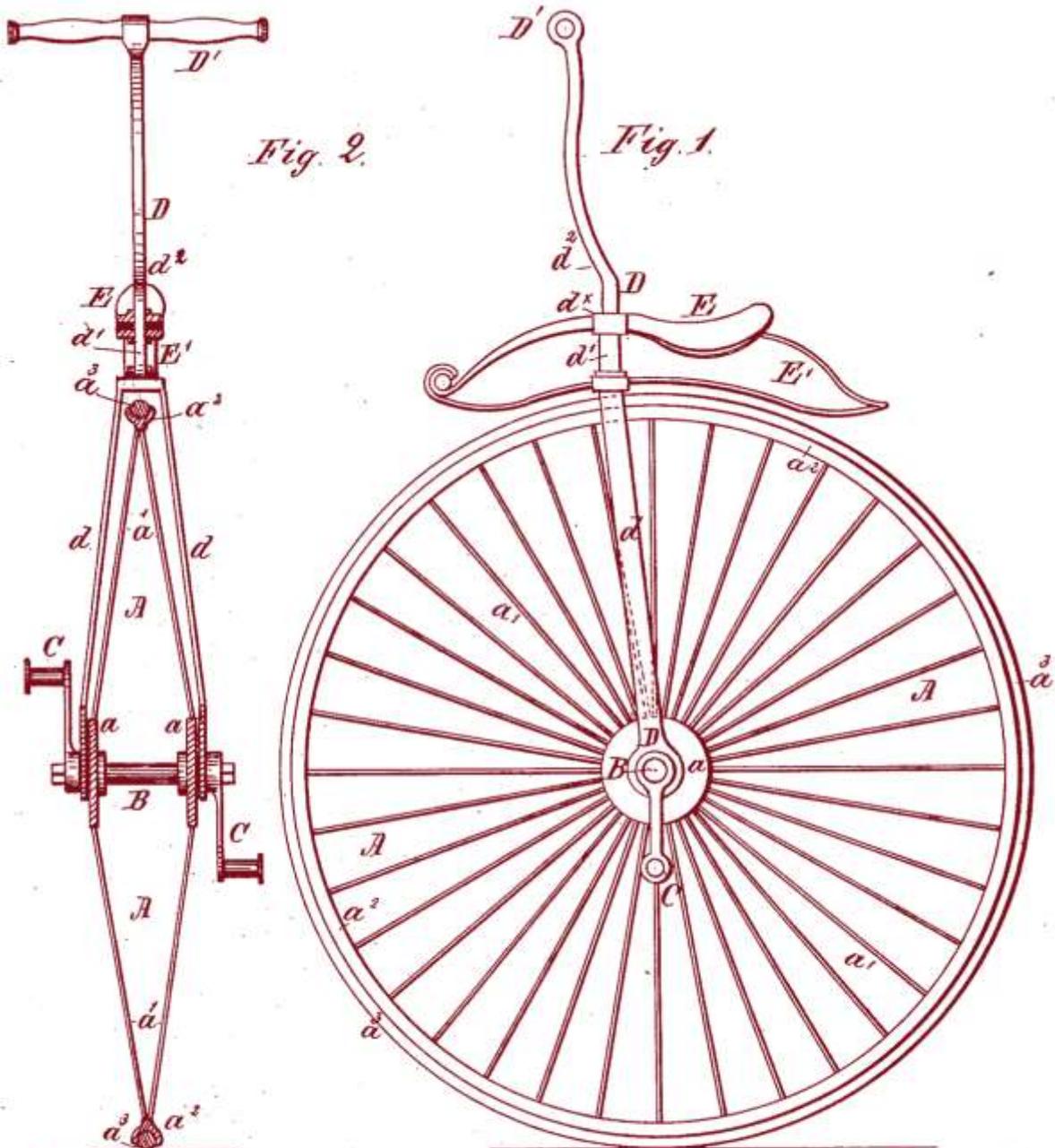


# CIPP ANNUAL REPORT 2016-2017



Witnesses.  
Mr. A. M. Elwee.  
Philip Pollard

Inventor  
S. Battista, Scuri  
per Lewis & Co. atty.



McGill



CENTRE FOR INTELLECTUAL  
PROPERTY POLICY

CENTRE DES POLITIQUES EN  
PROPRIÉTÉ INTELLECTUELLE

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# CIPP ANNUAL REPORT

## 2016-2017

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# A word from the Director

Since 2003, the Centre for Intellectual Property Policy is home to IP enthusiasts, students, teachers and researchers, innovators, practitioners, and policy makers. As evidence that we take policy seriously, our own David Lametti, IP expert and co-founder of CIPP, is now a member of Parliament and has recently been appointed Parliamentary Secretary to the Minister of Innovation, Science and Economic Development. Also worth mentioning, CIPP launched in 2015 a pilot course “IP Policy in The Making” in collaboration with Heritage and Innovation Canada, a course conceived as a means for students to gain instruction and experience in public policy thinking, drafting and briefing. This year, four sister Canadian universities have agreed to join us: University of Montreal, University of Ottawa, University of Toronto, and York University (Osgoode Hall). The teams of students will be called upon to present their work orally before a panel of experts and officials at the “Grand Oral” in Ottawa in March 2018.

For the years to come, the Centre has identified three broad research avenues or “grands objets d’étude” which convoke, in various ways, intellectual property theories and which are, in essence, transdisciplinary ventures: Innovation, Health, and Food. The latter draws on CIPP interests in the notion of *terroir*, our work on geographical indications and our intention to work closely on food safety issues with our colleagues at the Centre for Human Rights and Legal Pluralism. The theme of innovation has already been the subject of numerous activities and publications. Suffice here to mention Richard Gold’s new course on Innovation, open to all. Professor Gold has also recently been appointed a Senior Fellow with CIGI’s (Centre for International Governance Innovation) International Law Research Program.

CIPP is a place to think but also to act. Our work is widely disseminated through conferences, seminars, ideas, reports or amicus briefs. We also contribute by bringing an independent and unbiased view on sophisticated issues and engaging in discussions at the provincial, federal and international levels. We believe that our work matters for everyday society and for the future leaders we are privileged to have among us in our classrooms and research teams at McGill.

**We are proud of our initiatives, our diverse community, and our influence, past, present, and future.**

We are imaginative, curious and independent. Our voices are informed, respected, and undaunted. We are engaged, connected, and thoroughly grounded in the intersection of our work with the greater good.

**Welcome, please join us!**

Pierre-Emmanuel Moyse, April 2017

## Mission & Vision

**Our mission** is to provide a forum for the study of the legal, social, and political implications of intellectual property norms and their applications, and to act as a nexus between academic researchers, policymakers, critics, practitioners, the business community, and the general public on IP issues.

**Our vision** is to advance research and shape IP and innovation policy and systems at McGill and to bring our expertise to bear, when possible, on issues at the local, provincial, and national levels. The CIPP is a home for interdisciplinary research into the impact of IP policies and rules on creativity and innovation in several jurisdictions. We not only examine if and how IP regimes contribute to broad social goals such as increased health, cultural development, access to information, and economic growth, but also how cosmopolitan lawyers can effectively navigate a complex international IP environment. Our work informs how we teach IP law and innovation systems to undergraduate and graduate students, and the way we actively disseminate our new knowledge and findings to multiple local and global communities and stakeholders.

# Core team



## **Pierre-Emmanuel Moyses**

Associate Professor, Faculty of Law  
Director, Centre for Intellectual Property Policy

Pierre-Emmanuel Moyses is an Associate Professor at the McGill Faculty of Law and the Director of the [Centre for Intellectual Property Policy](#). He teaches intellectual property, commercial law, and property law.

He is the founder and editor of the Thémis Competition and Innovation Series and Director of Publications of the *Jurisclasseur Propriété Intellectuelle* published in Québec by LexisNexis. Since 2014, he has taught his new course “The Laws of Innovation” in various venues including the Buchmann Faculty of Law at the University of Tel Aviv and the Facoltà di Giurisprudenza at the University of Trento. He is currently researching the social and legal costs of innovation, the interrelation between tax and IP, and the idea of terroir in the law.

Full bio: <http://www.mcgill.ca/law/about/profs/moyse-pierre-emmanuel>

Publications: [http://papers.ssrn.com/sol3/cf\\_dev/AbsByAuth.cfm?per\\_id=1206249](http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=1206249)

## **Latest research**

- Geographical indications
- Mobility of knowledge
- Abuse of IP rights
- The Digital patrimony
- Regulating innovation



## **E. Richard Gold**

Associate Dean (Graduate Studies); James McGill Professor, Faculty of Law  
Associate Member, McGill Department of Human Genetics, Faculty of Medicine

A James McGill Professor, Richard Gold was the founding Director of the Centre for Intellectual Property Policy. He teaches in the areas of innovation and intellectual property, both at a national and international level. While much of his research focuses on the life sciences, his work crosses sectoral boundaries. He is currently heading a large international project examining the role of Open Science in both accelerating research and innovation in the life sciences.

Professor Gold has provided advice to Health Canada, Innovation, Science and Economic Development Canada, the Canadian Biotechnology Advisory Committee, the Ontario Ministry of Health and Long-Term Care, the Organisation for Economic Co-Operation and Development (where he was the lead author of the OECD Guidelines on the Licensing of Genetic Inventions and a report on Collaborative Mechanisms in Life Science Intellectual Property), the World Health Organization, the World Intellectual Property Organization, and UNITAID.

Full bio: <https://www.mcgill.ca/law/about/profs/gold-richard>

CV and publications: [https://www.mcgill.ca/law/files/law/gold-richard\\_law\\_faculty\\_mcgill\\_cv.pdf](https://www.mcgill.ca/law/files/law/gold-richard_law_faculty_mcgill_cv.pdf)

### Latest research (R. Gold)

- Patents, property and innovation policy
- Intellectual property and development
- Brings patent expertise to courts, government, and international organizations
- Named Senior Fellow at the Centre for International Governance Innovation



### Allison Christians

Associate Professor; H. Heward Stikeman Chair in Tax Law, Faculty of Law

Allison Christians is the H. Heward Stikeman Chair in the Law of Taxation at the McGill University Faculty of Law. Her research and teaching focus on national and international tax law and policy issues, with emphasis on the relationship between taxation and economic development and on the role of government and non-government institutions and actors in the creation of tax policy norms.

Before entering academia, she practiced tax law at Wachtell, Lipton, Rosen & Katz in New York, where she focused on the taxation of domestic and cross-border mergers and acquisitions, spin-offs, restructurings, and associated issues and transactions involving private and public companies, and at Debevoise & Plimpton in New York, where she focused mainly on private equity funds.

Full bio: <https://www.mcgill.ca/law/about/profs/christians-allison>

Publications: [http://papers.ssrn.com/sol3/cf\\_dev/AbsByAuth.cfm?per\\_id=348301](http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=348301)

### Latest research

- Tax law and tax policy
- Tax justice
- Tax and innovation



### Tina Piper (on leave fall 2016)

Associate Professor, Faculty of Law

Before joining McGill University, Tina trained as a biomedical-electrical engineer and completed her doctorate at the University of Oxford as a Rhodes Scholar. Her doctorate studied how and why physicians in early twentieth-century Britain created and enforced a prohibition against patenting medical methods of treatment. This was the basis for her research into communities which apply, ignore, and transform intellectual property law in the course of their activities. She has explored a number of communities including independent music labels in Montreal, scientists investigating plant hormones at Canada's National Research Council, early twentieth century Canadian university research scientists, mid-twentieth century Canadian military officers, and Canadian lawyers' contemporary copyright practices.

Full bio: <https://www.mcgill.ca/law/about/profs/piper-tina>

Publications: [http://papers.ssrn.com/sol3/cf\\_dev/AbsByAuth.cfm?per\\_id=830618](http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=830618)

### Latest research

- Intellectual Property in its Place: Creative Labour and the Everyday
- Emerging Health Researchers and the Commercialization of Academic Science



**Sarah Ali-Khan**

Research Associate, Faculty of Law  
Project Manager, PACEOMICS Genome Canada Project

Sarah is a research associate in the CIPP, working with Prof. Richard Gold as part of PACEOMICS (a stand-alone GE3LS research project funded by Genome Canada in the 2012 Competition in Genomics and Personalized Health).

Her research examines public policy and socio-ethical implications of intellectual property and knowledge management in biomedical innovation. This includes qualitative research on the impacts of gene patents on patient access and R&D, on knowledge dissemination and on ‘Open Science’ in Canada and beyond. She also leads knowledge translation for PACEOMICS (<http://paceomics.org>).

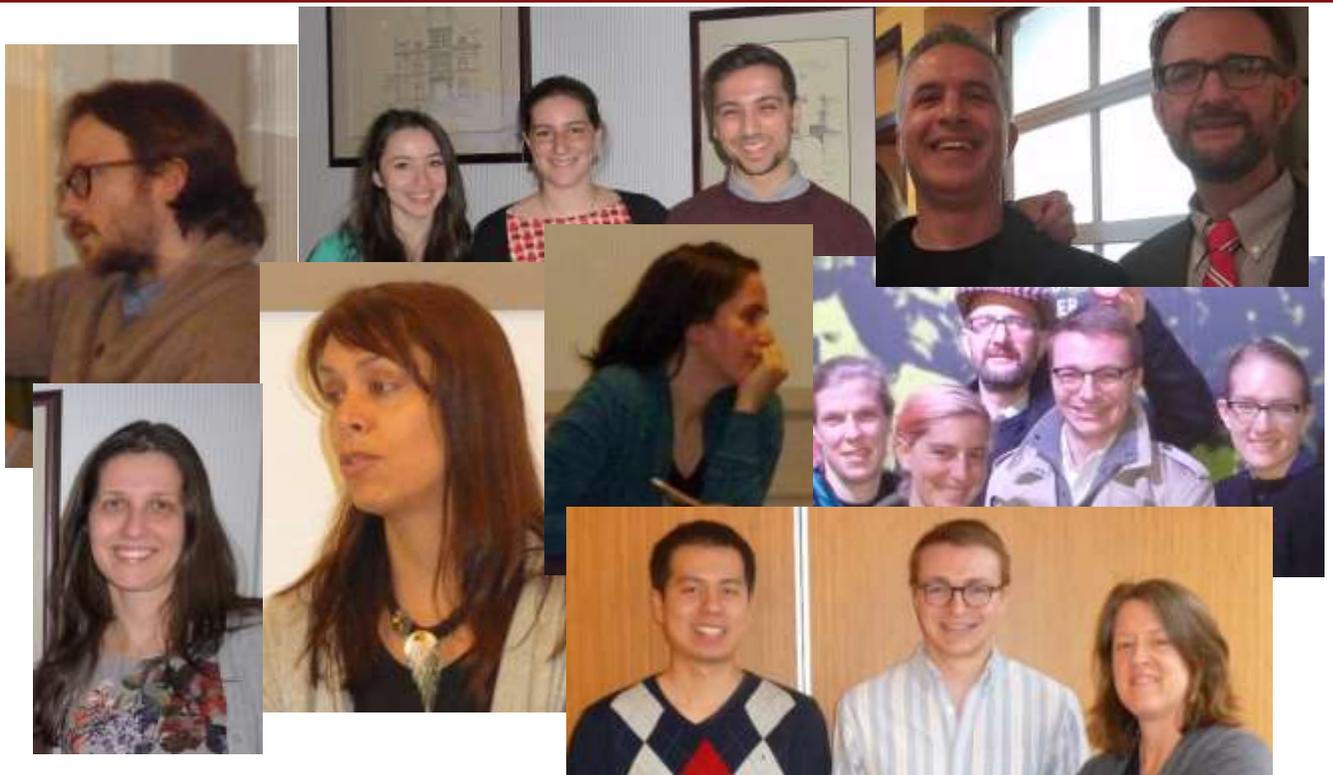
Sarah trained as a biomedical scientist, completing her PhD in pharmacology and therapeutics at McGill. She was a Post-Doctoral Fellow in genomics and innovation policy at the University of Toronto (McLaughlin Rotman Centre for Global Health), and was at the McGill’s Centre of Genomics and Policy before joining the CIPP.

Full bio: <https://www.mcgill.ca/law/about/visiting-professors-fellows-and-postdocs/ali-khan-sarah>

**Latest research**

- Policy and ethical implications of IP rights
- Knowledge management in Personalized Medicine innovation

# Our team in images



# CIPP in action & in the news

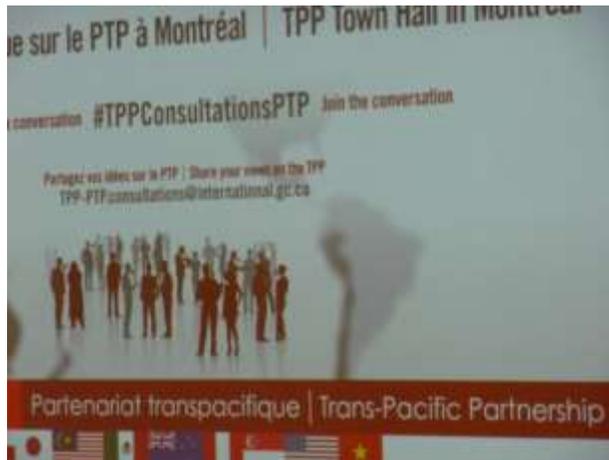
## ***“New genetic testing deal could spur major research breakthroughs”***

Healthy Debate (18 May 2016)

<http://healthydebate.ca/opinions/cheo-genetic-testing-agreement>.

**E.R. Gold**

Earlier this year, the Children’s Hospital of Eastern Ontario (CHEO) [announced a deal](#) with the holder of five patents over a genetic test for [Long QT syndrome](#) – a heart abnormality that too often leads to sudden death in young people. [...] The solution that CHEO found not only opens the way for Canadians to access the best and most comprehensive genetic tests available, but represents a great opportunity for Canadian innovation in the field. [...]



## **TPP Town Hall at Concordia University**

**06 June 2016**

**P.E. Moyses/E.R. Gold**

In November 2015, the Trans-Pacific Partnership (TPP) text was released to the public. In the spirit of transparency and consultation, the Government of Canada engaged in open forums with Canadians on the TPP. As part of this process, on June 6, 2016 at Concordia University, Canadian Trade Minister Chrystia Freeland assembled specialists in Montreal, including Richard Gold and Pierre-Emmanuel Moyses, to publicly discuss and debate the contentious TPP draft agreement.

## ***“We need to be training Canadians in the modern ideas economy”***

The Globe and Mail (12 July 2016)

<http://www.theglobeandmail.com/report-on-business/rob-commentary/we-need-to-be-training-canadians-in-the-modern-ideas-economy/article30858981/>

**E.R. Gold**

If the Canadian economy is to grow, we must break through the glass ceiling holding our companies back. What we’ve been doing for the past 30 years – taking a hands-off approach to policy, increasing intellectual property protection to meet the needs of foreign companies and burdening our universities with a mandate they cannot fulfill – is failing our innovators and our economy. We need to set aside bad policies and develop a made-for-Canada approach. Critically, we must educate our young people to creatively manage risk in a global ideas economy. [...]

## **Apple and the European State Aid Investigation of Ireland**

Tax Analysts Facebook Live Interview (29 September 2016)

<https://www.facebook.com/TaxAnalysts.org/videos/1142459539153391/>.

**A. Christians**

## ***Exploring “The Social Costs of Innovation”***

Law Focus Online (15 November 2016)

<http://publications.mcgill.ca/droit/2016/11/15/social-costs-of-innovation/>

**P.E. Moyse/V. Gautrais/S. Smydo (4L); Photos Sydney Warshaw (3L)**

Pendant une après-midi, dans les locaux aimablement prêtés par le Centre d'entreprises et d'innovation de Montréal (CEIM), nous avons échangé sur l'idée d'innovation ou plutôt sur les conséquences de son omniprésence (dans les programmes politiques autant que dans ses effets réels sur la société). Quarante-dix personnes nous ont accompagnés dans ce véritable rallye d'idées et de thèmes. [...]

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## ***“In the Trump era, Canada can be a beacon for innovators”***

The Globe and Mail (18 November 2016)

<http://www.theglobeandmail.com/report-on-business/rob-commentary/in-the-trump-era-canada-can-be-a-beacon-for-innovators/article32898581/>

**E.R. Gold**

Innovation is less about technology than it is about people and institutions. This is the good news for Canada in the wake of Donald Trump's election. [...] Canada has never been better poised to thrive in innovation. We possess obvious advantages: a society open to immigrants and a commitment to the idea that every voice has value. We are strong in research, academic citations and invention. Education remains more affordable here than in the United States. Despite contrary assumptions, the Conference Board of Canada has shown that we are entrepreneurial and willing to take risks, and that there is money to support new enterprises for those who look. [...]

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## **Consultations on the future of innovation in Canada**

December 2016 and March 2017

**P.E. Moyse/E.R. Gold**

Pierre-Emmanuel Moyse and Richard Gold were both invited guests at national consultations in Toronto on the future of innovation in Canada. The sponsor and the discussions remain confidential, but needless to say, the contributions of Professors Gold and Moyse among their peer thinkers, researchers, and other stakeholders were sought out to help to shape the future of IP and innovation in Canada for the years to come. Collectively thinking ahead and collaborating widely are critical for Canada's future, and it has been our pleasure and privilege to contribute our voices and expertise to the conversation!

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## ***“Intellectual Property Policy Gets a Makeover”***

McGill Reporter (12 January 2017), Innovation Steering Committee announcement

<http://publications.mcgill.ca/reporter/2017/01/intellectual-property-policy-gets-a-makeover/>

By Kathryn Jezer-Morton

McGill's Policy on Intellectual Property has been revised and updated for the first time since 2001. Over the past fifteen years, the landscape of intellectual property protection, commercialization and open science has seen dramatic transformations. The rise of social entrepreneurship and startup culture has brought about opportunities for inventors that scarcely existed in 2001. For these reasons, McGill's IP Policy Revisions Working Group, at the behest of the [Innovation Steering Committee](#) has overhauled the IP Policy to reflect the current conditions across a range of domains, from tech transfer to open science to copyright. [...]

## Allison Christians, among the Global Tax 50 (again!)

[International Tax Review](#) (27 January 2017)

<http://www.internationaltaxreview.com/Article/3646616/Global-Tax-50-2016-Allison-Christians.html>

In December 2016, *International Tax Review's* editorial team named **Allison Christians** to its Global Tax 50 list for a second year in a row, placing her among the most influential individuals, organizations and geopolitical events in the world of taxation in the past 12 months. [...]

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## Student papers on intellectual property

[Law Focus Online](#) (27 January 2017)

<http://www.cippmcgill.ca/news/c/bus2-502-presentations/>

By Lysanne Larose / various student authors

Periodically, the CIPP shares student essays on intellectual property on our website. In January 2017, these were highlighted in Law Focus Online: “The subjects of these great reads vary widely, covering such themes as publicity rights, revenge porn, software patents, and who holds the rights to a famous selfie taken by a macaque (*Naruto v. Slater*).” [...]

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## Putting Innovation in Context

[YouTube](#) (27 January 2017)

<https://www.youtube.com/watch?v=zwooOy8C1pw>

### Are Patents Good for Innovation?

[YouTube](#) (14 February 2017)

<https://www.youtube.com/watch?v=Z5bUwogLWVc>

**E.R. Gold**

Richard Gold on the McGill Neuro open science experiment: “We’re at a moment in time when Canada can take a leadership role in innovation...”



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## Allison Christians, H. Heward Stikeman Chair in Tax law for seven more years!

Memo from Dean Leckey (28 April 2017)

Provost and Vice-Principal (Academic) Chris Manfredi recently reappointed **Allison Christians** to the H. Heward Stikeman Chair in Taxation Law, this time for a seven-year term. [...] Dean Robert Leckey commented: “Since joining us, Allison has made a serious mark as Stikeman Chair – as a scholar, as a teacher, and as a public intellectual who uses social media to share her insights and to engage a broad public in discussion of tax and public policy.”

And in case that weren’t enough, Allison has also agreed to take on additional responsibilities at the faculty, accepting a three-year mandate as Associate Dean (Research) beginning in Fall 2017.

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## Pierre-Emmanuel Moyse reappointed to the helm of CIPP for 3 more years!

Memo from Dean Leckey (09 May 2017)

In April 2017, our fearless leader and intrepid Director, Pierre-Emmanuel Moyse, received the news of his reappointment to the direction of the CIPP. Dean Robert Leckey commented: « PEM a apporté une énergie contagieuse à ses fonctions et je suis ravi qu’il y reste afin de recueillir les fruits des initiatives lancées pendant son premier mandat. Longue vie au CIPP ! » Thus the adventure continues!

# Seminars & conferences

02 November 2016

**CIPP/Université de Montréal conference:  
The Social Costs of Innovation: Law, Society  
and the Greater Good**

**Opening remarks: V. Gautrais**

**Keynote address: A. Kling**

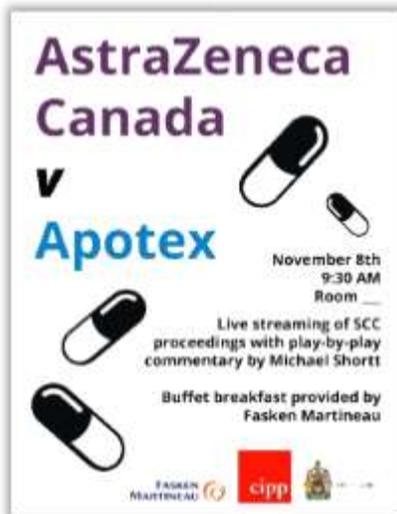
**IP panel: R. Gold, J-C Galloux, M. Shur-Ofry**

**Tax panel: E. Seguin, M. Graham, J. Heyka**

**Closing remarks: PE Moyses**



What is the relationship between innovation and social progress? We often assume that technological change is a necessary part of societal progress and so lawyers and policymakers focus their efforts on creating laws that they think effectively support or regulate technological innovation. We are comfortable with this story and so we perpetuate it through legal and policy decisions. Yet, is technological innovation necessarily linked with innovation, growth, and welfare? We must confront these assumptions and consider how jurists can impact innovation while increasing social justice. [...] Quatre-vingt-dix personnes nous ont accompagnés dans ce véritable rallye d'idées et de thèmes. [...] Themes discussed throughout the day included the role of universities in encouraging innovation, the importance of developing an innovation policy and its specificity to each country's particular context, and how to facilitate and protect "non-linear" models of innovation. We even grappled with trying to define the concept of "innovation" itself. (Vincent Gautrais, Pierre-Emmanuel Moyses, Stacey Smydo).



08 November 2016

**Supreme Court Live-Stream: AstraZeneca vs. Apotex**

**Richard Gold**

**Commentator: Michael Shortt**

Professor Richard Gold and the University of Ottawa's Jeremy de Beer travelled to Ottawa with several McGill Law students in tow to testify at the Supreme Court in the landmark AstraZeneca Canada v Apotex case. Back at McGill, the CIPP hosted a breakfast, graciously provided by Fasken Martineau, and live screening of the proceedings. McGill law alum, and IP lawyer at Fasken Martineau, Michael Shortt, provided play-by-play commentary for all those that attended. (Sydney Warshaw)

**19 November 2016**

**Innovation in Context conference**

The *Innovation in Context* workshop was held on Saturday, November 19, 2016, in Montreal at the Phi Center. The workshop brought together 14 leaders in innovations, and explored the topic of innovation as a social phenomenon as much as a technological one. In particular, the conference looked what conditions in society lead people not only to create, but to turn those creations into innovations. In attendance were students, faculty, policy makers, entrepreneurs, and community leaders. The conference occurred during McGill University's Innovation Week. It was co-sponsored by CIPP and the Centre for International Governance Innovation (CIGI). (Matthew Malone)



Photo by Owen Egan

**23 November 2016**

**CIPP/Université de Montréal Law + Change seminar:  
Droit + Changement + Propriété Intellectuelle  
Sérgio Branco**

On November 23<sup>rd</sup>, Professor Branco discussed how the internet and the technologies that have developed in the last 20 years have forced copyright standards to be adjusted to a new reality - a reality in which copyright owners are not in control of copies anymore. The digital world is a big challenge that demands new business models and a new perspective towards copyright protection. Professor Branco considered ways that we can we integrate old theories with contemporary technology and how Brazil and other South American countries can contribute to this discussion. (Sérgio Branco, edited)



**27 January 2017**

**Smart Regulation for Smart Cities  
CIPP + CRIEM + CEIM + JW McConnell + Cities for People  
Pierre-Emmanuel Moyse**

On January 27<sup>th</sup>, Professor Moyse joined Mehdi Benboubakeur, John Geraci, and Peter V. Hall, at the Centre d'entreprises et d'innovation de Montréal (CEIM) for a conversation about regulation and innovation in smart cities. Panelists discussed innovation in Montreal, and explored the assumptions that dominate discussions about how best to stimulate innovation, and what it best for the city. They explored the costs of innovation and, in particular, how the creative class is designated and catered to. After each panelist's presentation, a discussion was held, moderated by Diane Bérard. Opening remarks were delivered by Gorka Espiau, and closing remarks by Angelique Mannella. The conference was followed by a cocktail, courtesy of the CEIM. (Sydney Warsaw)



# CIPP/Lallemand seminars

September 26, 2016

## CIPP/Lallemand seminar: A Privacy Shield to Protect an Unsafe Harbour? The EU-US Data Protection Debate and its Implications for Canada

Bernd Holznagel



On September 26, the CIPP held its first seminar of the year in collaboration with Lallemand, Inc. Prof. Bernd Holznagel, Director of the Institute for Information, Telecommunications and Media Law at the University of Münster, first provided us with an interesting comparative analysis of both the US and European approaches to the issue of data protection. Briefly, the former has a harm-based approach and the latter a rights-based approach. Considering the private nature of this personal data and the importance of personal data as a rising and significant trade commodity, these differences raise important legal challenges and practical problems.

Then, our discussion was centered on the European Court of Justice's decision *Maximilian Schrems v. Data protection commissioner* and the question of the Privacy Shield. Some concerns were raised about the ruling with regards to the economic reality, but it does seem that European tribunals are ready to prioritize privacy rights over economic interests. Students, lawyers and professors seemed to all have enjoyed the seminar and the discussion continued informally afterwards. (Jeff Li)

23 January 2017

## CIPP/Lallemand seminar: Les enjeux de la fiscalité de la propriété intellectuelle: Approche européenne Nicholas Binctin

On 23 January, Prof. Nicolas Binctin of the l'Université Paris II and l'Université de Poitiers visited the Faculty of Law for a talk on the topic, "The Stakes of Intellectual Property: A European Approach." His talk centered on issues of European competition law as concerns tax, intellectual property, and innovation. In particular, he discussed the State Aid cases on tax rulings that are currently center stage at the European Commission. However, the EU itself and the culture around commerce in the Benelux have unfortunately exacerbated the situation notwithstanding the efforts of the European Commission to curb the abuse of IP's mobility and tax incentives. Last, he expressed hope that the OECD's Base Erosion and Profit Shifting project will have an enduring influence on the culture around IP and tax in Europe, commenting that the UK already eliminated its "patent box" and that other initiatives by the EU are on the way to level the playing field as the European Commission has intended all along. (Jacob Heyka)



**10 March 2017**

**CIPP/Lallemand seminar:  
Acknowledging Indigenous Heritage as a Human Right  
George Nicholas**

On March 10, the CIPP was pleased to welcome Professor George Nicholas from Simon Fraser University. Professor Nicholas delivered a talk on the link between intellectual property and human rights concerns in regard to reclaiming indigenous heritage. Professor Nicholas spoke about the continued appropriation of aboriginal culture within consumer markets. Indeed, defining the line between cultural borrowings and appropriation served as one of his greatest concerns. Speaking with Professor Nicholas one-on-one, after his conference, revealed for me just how large a role this battle has played in his career. Discussing his leadership in the IPinCH project, “a major international research initiative aimed at facilitating fair and equitable exchanges of knowledge related to archaeology”, it became clear just how deeply committed the professor was to a battle he considered “far from over”. To learn more about the IPinCH project and their affiliated initiatives, please visit <http://www.sfu.ca/IPinCulturalHeritage>. (Cédric Mulcair)



**24 March 2017**

**CIPP/Lallemand seminar:  
University Patent Licenses in the CRISPR Era  
Jacob S. Sherkow**



On March 24, Jacob Sherkow, Associate Law Professor at New York University provided McGill’s CIPP and a captivated audience with an engaging discussion on the CRISPR patent era. More specifically, Professor Sherkow discussed his concerns on the CRISPR patent evolution and its impact on the culture of university cooperation within the United-States. Professor Sherkow navigated the complex topic with particular ease given his background in both molecular biology and legal studies. Discussing the use of surrogate bio-medical companies by large universities in the United-States, Professor Sherkow provided a poignant critique of the fact that this has denied smaller companies an entry into the field, largely due to broad CRISPR patenting. According to the professor, “there is simply too much intellectual property being claimed for clinical trials that will be run”. Professor Sherkow ended his discussion with a comment on the CRISPR patents as a model for ethical gatekeeping in determining the direction of bio-technology. Professor Sherkow conveyed a variety of the themes and their relevance into an energetic and engrossing narrative. (Cédric Mulcair)

# Publications

## *Monthly Newsletter*

Our *CIPP Newsletter*, authored by graduate Jeff John Roberts, is considered one of the premier publications in our field; with over two thousand subscribers worldwide, the *Newsletter* fosters a global conversation about new ways to understand the ever-evolving world of Intellectual Property.

## *Current, Recent, and Forthcoming Publications*

### **2017**

Christians, Allison, *BEPS and the New International Tax Order*, 2016-2017 (6) B.Y.U. L. Rev 1603 (2017).

Christians, Allison, *The Power to Tax*, in Allison Christians & Sergio Rocha, eds., *Tax Sovereignty in BEPS Times* (Routledge 2017)

Christians Allison and Vokhid Urinov, *Canada Report*, in *Improving Tax Compliance in a Globalized World* (Linde Verlag 2017)

Christians, Allison., *Tax Justice as Social License: The Fair Tax Mark*, in Richard Eccleston and Ainsley Elbra, eds., *Paying a Fair Share? Business, civil society and the ‘new’ politics of corporate tax justice* (Edward Elgar 2017)

Moyses, Pierre-Emmanuel and Francis Lord, eds. “ *Competition & Innovation 5: Le Droit et la Machine* (Les Éditions Thémis 2017).

Cloutier, L. Martin; Détolle, A. et al, incl. Moyses, Pierre-Emmanuel. « La transformation du cidre au Québec: Perspective écosystémique. » (Les Presses de l’Université du Québec, 2017).

Moyse, P.-E. « La droit du cidre de glace au Canada », dans M. Cloutier et A. Détolle, *La transformation du cidre au Québec*, PUF, Montréal (2017) pp. 275-302.

Christians, Allison, *Spillovers and Tax Sovereignty*, 85 *Tax Notes Int'l* 831 (27 Feb. 2017).

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## *Current and Recent Grants*

### **Healthy Brains for Healthy Lives**

**E.R. Gold's share as yet unknown**

**McGill University, 2016-2023**

**\$84 000 000 CDN**

**Canada First Research Excellence Fund**

The central vision of the Healthy Brains for Healthy Lives initiative is to create a global centre for excellence, establish a hub for neuroinformatics and big data analysis, and accelerate translational discoveries that will improve brain health in Canada and around the world.

### **Genomics and personalized health Ge3LS Network**

**E.R. Gold, Co-applicant, 2016-2019**

**\$998 473 CDN**

**Genome Canada**

In 2016, Genome Canada announced funding for a network to bring together GE3LS researchers from 17 projects. The Network will address four priority GE3LS themes: research ethics review; health economics and health technology assessment; knowledge transfer and implementation in health systems for 'omics technologies; and intellectual property and commercialization.

### **Intellectual Property and Innovation**

**E.R. Gold, Principle Investigator, 2016-2017**

**\$23 530 CDN + \$125 000**

**in-kind**

**Centre for International Governance Innovation**

In 2016, Richard Gold was named a Senior Fellow at the Centre for International Governance Innovation (CIGI). Funding has been approved under the International Law Research Program for research and a workshop on Intellectual Property and Innovation.

### **Montreal Neurological Institute Open Science Project**

**E.R. Gold, Principal Investigator, 2015-2016**

**\$20 000 CDN**

**Montreal Neurological Institute**

We investigate the meaning of open science to researchers and students working at the Montreal Neurological Institute, their concerns over the effect of open science on their work and propose principles to advance open science within the context of the Institute.

### **BIOSMART: Managing the Transition to a "Smart" Bioeconomy**

**E.R. Gold, Partner, 2015**

**39 960 000 NOK**

**The Research Council of Norway**

BIOSMART promotes a "smart" transition by conducting a major foresighting exercise on stakeholders in the bioeconomy. An initial extensive foresighting process will cover 1500 businesses from the farming, forestry, fisheries, bio-science, and industry sectors to develop separate industry scenarios of bioeconomic development.

### **An Intellectual Property Index: Creating a Firm Foundation for Transdisciplinary Study, Policy-Making and Business Strategy**

**E.R. Gold, Principal Investigator, 2013, 4 years**

**\$139 980 CDN**

**Social Sciences and Humanities Research Council, Insight Grant**

This project brings together a multidisciplinary team to construct and validate an index of intellectual property rights protection around the world.

**PACE - 'Omics: Personalized, Accessible, Cost-Effective Applications of 'Omics Technologies**  
**E.R. Gold, Co-Investigator and Co-Lead of Intellectual Property Theme, grant co-PIs, Chris**  
**McCabe & Tania Bubela, 2013, 4 years** **\$4 502 080 CDN**  
**Genome Alberta and Genome Quebec**

This multi-disciplinary team investigates how best to connect those who innovate in respect of personalized medicine with those who conduct technology assessment. Prof. Gold's role on the grant is to investigate innovation systems, intellectual property and to lead knowledge translation activities.

**Regulating Innovation: Law and the Creative District**  
**A. Christians, Principal Investigator; P.-E. Moyses, Co-Investigator; 2014, 3 years** **\$56 000 CDN**  
**Social Sciences and Humanities Research Council, Insight Grant**

This project investigates how legal institutions affect innovation in our newly globalized era and draws on well-documented innovative districts in Montreal and Silicon Valley to assess the role law plays in the promotion or hindrance of innovation. Our main focus is how such state regulation affects innovation.

### ***Grants in Progress***

#### ***Obsolescence***

SSHRC Insight Development Grant  
Pierre-Emmanuel Moyses, application January 2017  
Outcome: Under review

#### ***Power and the Intellectual Property of Professions***

SSHRC Insight Development Grant  
Tina Piper, application January 2016  
Outcome: Not funded

#### ***Terroir et les normes de proximité***

SSHRC Emerging Scholar grant  
Pierre-Emmanuel Moyses, application January 2016  
Outcome: Not funded

#### ***Tax, Intellectual Property and the Erosion of the State***

Internal Faculty of Law seed grant (one year)  
Pierre-Emmanuel Moyses & Allison Christians, application March 2017  
**Outcome: Funded** (\$5,000)

#### ***Legal Professional Communities of Practice***

Internal Faculty of Law seed grant (two years)  
Tina Piper, application March 2017  
**Outcome: Funded** (\$15,000)

#### ***Open Science workshop***

Gates Foundation  
Richard Gold, application Spring 2017  
Outcome: Under review

#### ***Open Science workshop***

Wellcome Trust  
Richard Gold, application Spring 2017  
Outcome: Commitment given, amount of funding to be confirmed

# Collaborators & sponsors

We sincerely thank our collaborators and sponsors for their engagement and support in 2016-2017. We value and invite such partnerships and welcome collaborations to help keep our network strong, our community diverse, and our ideas relevant and innovative.



## Centre d'entreprises et d'innovation de Montreal (CEIM) / Quartier de l'innovation (QI)

Jointly founded in 2013 by École de technologie supérieure (ÉTS) and McGill University, the Quartier de l'innovation (QI) is an innovation ecosystem in the heart of Montreal. 2015-2016 saw our first two collaborations with the QI and CEIM and 2016-2017 saw two more. A pleasure and privilege once again.

<https://www.mcgill.ca/qi/quartier-de-linnovation-qi> <http://www.ceim.org/en/>

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We are grateful to the Centre for Human Rights & Legal Pluralism for their enthusiastic collaboration on the visit of George Nicholas (SFU) speaking on the intersections of IP, Indigenous Heritage, and Human Rights.

<http://www.mcgill.ca/humanrights/>

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## Centre for International Governance Innovation (CIGI)

2016-2017 is our second year of collaboration with CIGI. Richard Gold and Pierre-Emmanuel Moyse were both involved in consultations in CIGI-led initiatives on the future of innovation in Canada. More to come!

<https://www.cigionline.org/>

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2017 saw our first, but hopefully, the first of many collaborations with the CRIEM on the Smart Cities Conference in the *Manifeste montréalais pour l'innovation sociale* series.

<http://www.mcgill.ca/centre-montreal/fr/accueil>

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It was our pleasure to collaborate with the Consulate General of Israel on the Social Costs of Innovation conference November 2. We look forward to our future partnerships.

<http://embassies.gov.il/montreal-fr/Pages/default.aspx>



Fasken Martineau sponsored two events with the CIPP this year: the Social Costs of Innovation conference on November 2 and the Supreme Court live-stream of the Astra-Zeneca vs. Apotex hearing. Thank you!  
[www.fasken.com](http://www.fasken.com)

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Now in its third year, our collaboration with Lallemand, a global leader in the research and development of yeast and bacteria, has proven a great success. Lallemand sponsor the CIPP seminar series.  
2016-2017 Lallemand Speakers:  
Bernd Holznagel, Nicholas Binctin, George Nicholas, Jacob S. Sherkow  
<http://www.lallemand.com/>

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The Lord Reading Law Society is a frequent collaborator at the faculty, and in fall 2016, they co-sponsored the visit of Mr. Asa Kling, Director of the Israel Patent Office.  
[www.lordreading.org](http://www.lordreading.org)

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2016-2017 is our second year of collaboration with Fraser Mann of Mann Symons LLP who is sponsoring the work of an excellent Research Assistant and a critical member of our team at the CIPP.  
<http://www.mannsymons.com/our-team/fraser-mann/>; <http://www.mannsymons.com/>

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**Regroupement Droit, changements et gouvernance (RDCG), CRDP; openUM; & la  
Chaire LR Wilson**

Le RDGC est un regroupement stratégique FRQSC liée au Centre de recherche en droit public (CRDP) de l'Université de Montréal. Le CIPP et le RDGC organisent certains événements en collaboration.

[www.rdcg.org](http://www.rdcg.org) | [www.crdp.umontreal.ca](http://www.crdp.umontreal.ca)

La Chaire L.R. Wilson et son équipe ont généreusement collaboré avec le CIPP sur l'enregistrement de nos séminaires et continuent à nous offrir la plateforme et de l'assistance pour notre site web.

[www.chairelrwilson.ca/en/](http://www.chairelrwilson.ca/en/) | <http://openum.ca>

# Graduate education & training

The CIPP provides graduate education and post-doctoral training at McGill. These students and fellows are provided with leadership roles in conducting research, applying for grants and supervising student learning. Students are encouraged to present their research at CIPP organised workshops, publish book chapters in CIPP-edited books and to present CIPP research at national and international conferences.

**Priscilla Maria Dias Guimarães César, DCL candidate** (Dir: Prof. Richard Gold)

**Thesis:** *“Bio-knowledge governance: The role of emerging economy states in complex intellectual property and innovation systems”*



Priscilla is a Brazilian lawyer and researcher. She holds a Masters degree in International and Comparative Law (2011) and a law degree (2005) from the University of São Paulo Faculty of Law (USP) in Brazil and a degree certificate in Industrial Property from the University of Buenos Aires, Argentina (2007). She is also a graduate student fellow at the Centre for International Governance Innovation (CIGI), in Waterloo, Ontario (2015–2016) and has been working as an online tutor at the World Intellectual Property Organization (WIPO) Academy’s Distance Learning Course since 2013.

Her research explores new approaches to intellectual property rights (IPRs) and innovation systems regulation and governance applied to health-related biotechnology research and development.

**Palmira Granados Moreno, DCL candidate** (Dir: Prof. Richard Gold)

**Thesis:** *“Patents and genetic information. Is this a convenient combination? The case of Mexican indigenous peoples”*



Palmira Granados is a Mexican lawyer specialized in intellectual property. She obtained her law degree from la Escuela Libre de Derecho in Mexico and her LL.M from the Faculty of Law at the University of Toronto.

Palmira specializes in the interplay of intellectual property and information and biotechnological technologies. Her doctoral research focuses on the intersection of intellectual property, ethics, human genetic information, and indigenous peoples. Palmira currently works at the Centre for Genomics and Policy focusing on the ethical and legal aspects of research and development involving human genetic information, including intellectual property.

**Francis Lord, DCL candidate** (Dir: Prof. Pierre-Emmanuel Moyse)

**Thesis:** *“The Legal Interpretation of Technology”*



Francis Lord holds an LL.M from Université Laval, and an MSc in Science and Technology Policy and Management from the University of Edinburgh. He will submit his thesis, *The Legal Interpretation of Technology*, in the present academic year. His work examines assumptions jurists share about technology.

*The Legal Interpretation of Technology* draws on technology studies and literary theory to argue that legal agents construct the meaning of technology—what technologies are and what they can do. Francis contends that some of the greatest challenges technology presents to law flow from legal practice, rather than from the technologies themselves. He further supports his thesis with studies of how jurists, through copyright law, formulated the properties and capacities of a familiar technology: the book.

**Alexander Ezenagu, DCL candidate** (Dir: Prof. Allison Christians)

**Thesis topic:** *The socio-legal and economic impacts of tax treaties on developing countries from a normative perspective.*



Alexander holds a Master of Laws degree (LL.M) from the University of Cambridge, and is a member of the Nigeria Bar Association. He is interested in the intersection of taxation, development, and cooperation among nations.

Alexander's research analyzes the socio-legal and economic impacts of tax treaties on developing countries from a normative perspective. He is engaged in the critical comparative study of the OECD and UN approaches to model tax conventions and standards with a view to understanding the shifting attitude toward the taxation of income by source states, and the implications of this shift for developing countries, especially in today's digital world. Alexander is a Rathlyn fellow.

**Lukas Vanhonnaeker, DCL candidate** (Dir: Prof. Andrea Bjorklund)

**Thesis topic:** *International investment law, investor-state arbitration and international corporate law.*



Lukas completed his bilingual (French/English) bachelor's degree in law at the Facultés Universitaires Saint-Louis (Brussels, Belgium) in 2010, and received his law degree (cum laude) from the Catholic University of Louvain, Belgium in 2012. He received a LL.M. in international business law from the Free University of Brussels, Belgium in 2013 (magna cum laude) and an LL.M. from McGill University in 2014, where he specialised in the fields of international trade law and international investment law.

Mr. Vanhonnaeker mainly focuses on international trade law and international investment law and had the opportunity to study corporate and IP law, which leads him to write on topics characterized by the intersection of these different legal fields.

**Daniel Goldenbaum, DCL candidate** (Dir: Prof. Pierre-Emmanuel Moyse)

**Thesis topic:** *Les rapports dialectiques entre le droit d'auteur et l'encouragement de la connaissance.*



Daniel Goldenbaum is a doctoral student at McGill University's Faculty of Law. He obtained his law degree from Paris Dauphine University and a Master of Laws (LL.M) from McGill University.

Dans un sens, l'existence d'une protection légale incite l'auteur à créer une œuvre, laquelle constitue une forme explicite de la connaissance. Dans l'autre sens, c'est au regard de l'objectif de diffusion de la connaissance que le degré de protection de ce droit et ses exceptions sont déterminés. Cette influence réciproque est le fruit de nombreux phénomènes que mon projet tente d'explorer".

# Innovation in teaching & learning

## **Innovation Law & Policy Course**

**E. Richard Gold**

**Fall 2016**

Innovation is not an invention. It's something more, not only the development of a novel technology, but its adaptation and diffusion within a society's culture. Not the vaccine, but the herd immunity that results when more than three hundred million people in north America are vaccinated. Not simply the invention of a computer and mainframe, but the uptake and reliance on this technology by the majority of people on earth. This was what I felt was the main take-away from the Innovation course. The first part of every class was spent reflecting in groups on key questions relating to what innovation was, why innovation flourished, why it failed, and if it was even a good thing in different contexts. The topics were as broad as the innovations themselves, from the printing press, the original creation of the civil code, Silicon Valley and modern pharmaceutical corporations. Students of any background were encouraged to bring their perspectives, and models of thinking to the table, artists engaged with economists, and policy specialists with those from the sciences. The nature of the collaborative assignments proved to create interesting dynamics, bringing people of diverse backgrounds together to solve problems in novel ways.

Presenting our innovations to Senior McGill administrators represented one of the more challenging portions of the course. Taking an idea from the research stages into a place where they could potentially be implemented was incredibly engaging. Our group met a great number of times, to talk out ideas, concerns, and barriers to our project. Ironically the course itself, we joked, had become a space within which innovation was happening. At the pitch, we were asked a variety of questions, which revealed traditional reasons why innovations might not be adopted or once adopted might not succeed. We were given the opportunity to respond to those concerns, and found ourselves drawing on the readings we had done in class. Overall this experience was a highlight for our team, in a course where we all felt as though the material was relatable, tangible, and constructive to our understanding of what it meant to innovate. (Michael Gardiner)

## **IP mini-course for Student Researchers**

**E. Richard Gold & Sarah Ali-Khan**

**Spring 2017**

Each May for the last four years, as a kick-off to the training offered to their research team, Richard Gold and Sarah Ali-Khan run a week-long mini course at the CIPP. The course covers the basics of patent law and research methodology, and explores the policy implications of IP management in biotechnology – all laying a foundation for the summer's activities to come. Often, the group includes not only research assistants on the Gold team, but those working with collaborators in other departments, providing an opportunity to strengthen connections, build synergies and share knowledge and know-how. Gold team research consists of a smorgasbord of projects at the intersection of access, innovation, collaboration, Open Science and legal analysis. (Sarah Ali-Khan)



# Looking ahead

Although we are proud of our work, we are not a team to dwell long in the past. We are excited about the future and the following is a sample of projects being planned for 2017-2018.

## Fall 2017

### **IP Policy in the Making Research Seminar and Policy Paper Competition** **Professor Pierre-Emmanuel Moysse**

In collaboration with Canadian Heritage (PCH) and Innovation, Science and Economic Development (ISED), the CIPP will be organizing another IP Policy in the Making seminar (the first was held in Fall 2015). The course has been upgraded from two credits to three, and will now come with a new twist – a Policy Paper competition involving five Canadian universities including McGill.

The seminar has been conceived as a way for students to gain instruction and experience in public policy thinking, drafting and briefing. Teams of students will research and prepare a thorough policy report as a Memorandum to Cabinet, under the supervision of university professors, departmental officials and policy experts, in response to one of three policy thematics. The thematics will be provided by the Copyright and International Trade Policy Branch of PCH and the Marketplace Framework Policy Branch of ISED, corresponding to current policy issues identified by the branches in the course of their work on copyright. The teams will present their work orally to a panel of experts and officials – such as policy analysts, academics, industry stakeholders and political decision makers – at the “Grand Oral” in Ottawa in March 2018. This will be a unique opportunity for students to showcase their skills, legal talents and imagination, where they will pitch to and receive feedback from those responsible for copyright policy on issues that are contemporary and relevant. In addition, the course is uniquely timed to coincide with the s. 92 parliamentary review of the Copyright Act, which may serve as a live feed informing the students’ work.

## Winter 2018

### **Proposed new legal clinic on IP and innovation** **ICI Innovation Clinic/que d’innovation at the** **CEIM in the Quartier de l’innovation**

This clinical initiative is in the funding stages and will be a joint initiative between McGill, Université de Montréal, the CEIM, and other partners. The clinic will be located at the CEIM, a hub in Griffintown (downtown Montreal) for young entrepreneurs and start-up businesses. The clinic will, under the supervision of lawyers, provide this local community of innovators with timely support and helpful documentation as they learn to navigate the legal complexities of starting a small business in Montreal. The clinic will also provide law students interested in innovation and IP with an opportunity for experiential learning and network-building as they refer cases forward to law firms specializing in intellectual property.





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**Allison Christians, Prof. [allison.christians@mcgill.ca](mailto:allison.christians@mcgill.ca)**

**Tina Piper, Prof. [tina.piper@mcgill.ca](mailto:tina.piper@mcgill.ca)**

**Sarah Ali-Khan, Dr. [sarah.ali-khan@mcgill.ca](mailto:sarah.ali-khan@mcgill.ca)**

**The report covers the period May 1, 2016 to April 30, 2017.**

Report compiled by Sharon Webb and Sydney Warshaw.

Event descriptions written by CIPP student RAs and  
collaborators, as indicated.

**CIPP 2016-2017**

**Interdisciplinary.**

**Innovative.**

**Strategic.**

**McGill's Centre for  
Intellectual Property**