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The Sea Change 2001-2003

- 2001 IPR was fragmented and national with some harmonisation
- 2003 a federalised IPR system is shortly to be available
- The challenge is to know about it and how to use it

Major Harmonised IPR

- Patents
- Trademarks
- Designs
- Copyright
- Confidential Information
- Community Patent available May 2004
- CTM available
- Community Design available April 2003
- Harmonised
- Enforcement pan EU

What is pan EU

- The major IPR
- The ability to have 1 site enforcement
- The availability of compulsory cross licensing

What is the cost/benefit structure v the USA

- Obtaining statutory IPR, about 2.5 times US for patents, slightly lower for other rights.
- Renewals, approximately comparable
- Enforcement lower and often quicker in EU (some major exceptions on speed)
- Damages more generous in US

The 2 System approach

- Pan EU
- Favours the SME
- Need for fewer rights
- But all eggs in 1 basket
- National
- Lies under the Pan EU in parallel
- Favours the large corporate (cost)
- Fragmentation

Case considerations- What if

- Semi synthetic penicillins
- Hepatitis C
- HIV
- EPO
- Would it have made any difference

Conclusion on Statutory IPR

- A barrier to innovation removed
- Challenge for SME's to make it work

Knowledge and Know-how

- Unaffected by EU law
- Knowledge is not useful until channelled
- Knowledge is the precursor to know-how
- Knowledge adds to goodwill
- Know-how is channelled and recorded knowledge
- It can be valued and licensed.
- Not necessarily confidential

A definition

- Know-how is consolidated and contextual knowledge characterised at a particular point in time and at a particular location.

The Challenge

- To gain knowledge about the new IPR opportunities
- To convert that knowledge into know-how to get the most out of the opportunities
- To set up the infrastructure to exploit innovation at all levels
- Would Dyson and Haberman have gone differently now