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THE GIFT OF SIGHT:
David Cavanaugh (left),
a partner at Wilmer, worked
pro bono to file patents on
the contact lens inventions
of Dr. Perry Rosenthal
(right) of the Boston
Foundation for Sight.



An Eye on the GREATER GOOD

Nowadays there's plenty of demand for pro bono IP work—from licensing the words of Mother Teresa to teaching patent drafting in Africa.

—By Theodora Blanchfield



“There’s nobody to supervise me.”

“It doesn’t count toward my billable hours.”

“There’s nothing in my field.”

Jonathan Baum, Katten Muchin Rosenman’s pro bono coordinator, has heard every excuse in the book to the question of why IP lawyers don’t get involved in pro bono work. And he has an answer for each and every excuse, especially for the idea that there’s no demand for pro bono IP work. To the contrary, he says, “there are people out there who have intellectual property but not much other property.”

Of course, most of the 4 million pro bono hours donated by the lawyers at Am Law 200 firms in 2007 weren’t for IP work. But thanks to improved communications with needy groups in the developing world and increasing savvy at nonprofit organizations in the United States, the special skills of IP lawyers are in increasing demand. “While historically it used to be a little harder to find IP pro bono work,” says Valerie Brennan, counsel at Hogan & Hartson, “in the last five years or so, there’s been a lot more of it.” Mary Rose Scozzafava, a partner at Wilmer

Cutler Pickering Hale and Dorr in Boston, agrees. She worked with the University of the West Indies in Jamaica to help establish a technology transfer program. “We’ve really seen an uptick in the level of the work we’ve been asked to do,” Scozzafava says.

Public Interest Intellectual Property Advisers, a nonprofit in Washington, D.C., was founded in 2002 to match IP attorneys with pro bono projects. It’s the personal pro bono project of Michael Gollin, an IP partner in Venable’s Washington, D.C., office. Gollin says that after the events of September 11 the prior year, he “decided I really needed to work to counteract the dark side of anti-innovation.” The group, which has received funding from the Rockefeller Foundation and the Ford Foundation, uses an e-commerce model on its Web site, piipa.org: Nonprofit organizations can “order” help (apply for assistance), and attorneys can “order” a project (fill out a form indicating their interests and experience). Gollin now has more than 500 lawyers

registered in his IP Corps database, and spends 300–500 hours per year matching his colleagues in the IP community with applicable pro bono work. At Kenyon & Kenyon, partner Michelle Mancino Marsh’s pro bono activities have included representing the Grameen Foundation, the Washington, D.C.–based nonprofit devoted to microfinance in the developing world, and Operation Role Models, a New York nonprofit that works with urban youth.

Pro bono work isn’t just providing criminal defense work to the indigent, Marsh says. Here are five lawyers who are using their IP smarts for the public good:



DAVID CAVANAUGH
Wilmer Cutler Pickering Hale
and Dorr, Boston Foundation for
Sight

IP attorneys often are introduced to important pro bono opportunities by their own law firm colleagues—lawyers with specialties in other areas who see a need for IP expertise at nonprofit organizations with which they are involved. For instance, David Cavanaugh, an IP partner at Wilmer, has been

prosecuting patents for the Boston Foundation for Sight after being introduced to the organization by Harry Daniels, a litigation partner at Wilmer in Boston who serves on the nonprofit’s board.

Boston Foundation for Sight was founded in 2004 by Dr. Perry Rosenthal, a pioneer in the contact lens industry. Rosenthal invented a lens that goes over the white of the eye and provides relief for those suffering from the intense pain of corneal disease. He began the nonprofit to bring his invention to patients who couldn’t afford it otherwise. Funding from the National Institutes for Health and private donations allows the foundation to fit and provide patients with the scleral lenses, which cost \$7,600 per pair.

Board member Daniels thought the foundation should seek IP protection for Rosenthal’s inventions. He turned to Cavanaugh, then an IP partner in Wilmer’s Boston office but now in the firm’s Washington, D.C., office. Since 2004, Cavanaugh has been working to build the foundation’s patent portfolio. As of early October, four patents are pending at the Patent and Trademark Office; three patents have been filed overseas.

Cavanaugh stresses that while the foundation is seeking patents—and may license the patents—they aren’t looking for litigation: “It was really born out of their idea to recognize some of their innovation . . . and describe the technology so that people would understand.”



COREY FIELD
Ballard Spahr Andrews
& Ingersoll, Mother Teresa
of Calcutta Center

Have you ever seen the Mother Teresa soap that promises to “wash away all your sins”? It won’t be for sale much longer if Corey Field, an associate at Ballard Spahr Andrews & Ingersoll in Philadelphia, has his way.

Field, who learned about copyrights working in music publishing before becoming a

lawyer, has been doing pro bono IP work for the Mother Teresa of Calcutta Center, the foundation set up to protect the image of the humanitarian. When Mother Teresa died in 1997, her IP was left to the foundation, which was much more familiar with charitable acts for the poor than with copyright.

Field learned about the center’s needs from Henry Hockeimer, a white-collar litigation partner at Ballard Spahr, who had a friend involved with Mother Teresa’s organization. The center had been presented with a potential film deal on Mother Teresa’s life. The foundation was concerned about how her name might be used, and Field and his team at Ballard Spahr taught them to think like IP owners. “Once we got [the foundation] to think [that way],” he says, “it was much easier for them to realize that when someone came to them, they could discuss what materials could be used, how they could be used, and they could be in control.” The center ultimately didn’t grant the rights, and so the movie wasn’t produced. Field deals with ongoing right-of-publicity issues, determining to whom the center should allow access for interviews and who can publish authorized life stories for films and books.

Field’s work with the foundation includes granting licenses to use Mother Teresa’s writings. For instance, he granted a license to a publisher in New Zealand to use 50 or 60 pages of her quotes in a book called *Love: The Words and Inspiration of Mother Teresa*, which was published in 2007. Field has also worked with Christian record company World Library Publications which wanted to publish a CD of songs using Mother Teresa’s words by singer-songwriter Danielle Rose. “We actually registered Mother Teresa as a lyricist, because that was the proper way to handle it,” says Field. The foundation will receive royalties from Mother Teresa’s songs that will help it continue its mission of helping the poor and powerless. “Copyright,” Field says, “becomes a tool to help them preserve her legacy.” He emphasizes that any proceeds that come from royalties go straight back to the center.

Robert Sayre



ROBERT SAYRE
MX Legal, ARIPO

Robert Sayre says that ARIPO (African Regional Intellectual Property Organization) used to be little more than an acronym to him. But after teaching patent drafting in Zimbabwe through a program sponsored by ARIPO and the World Intellectual Property Organization (WIPO), Sayre says he has newfound respect for both organizations.

“One of the main objectives of ARIPO’s program,” he says, “is to recognize innovation in developing parts of the world, particularly at universities and give them the power to leverage it through patents.”

Sayre, a patent attorney with his own Boston firm, MX Legal, found out about the teaching opportunity after WIPO contacted the Boston Patent Law Association last year looking for experienced patent prosecutors to serve in a training program. Sayre contacted WIPO, and after an interview he was on his way to Zimbabwe.

Upon his arrival in Zimbabwe—without his luggage,

which arrived a few days later—Sayre found himself staying across from the embattled ruling ZANU-PF party headquarters while the Zimbabwean currency was cratering due to hyperinflation. The Zimbabwean economy was in dire straits, but Sayre says the spirits of the students attending weren’t dampened.

Some were lawyers, other inventors. They came for the two-week program from all of the English-speaking member countries of ARIPO, including South Africa and Ethiopia. “Sometimes at the end of the class day, we’d give them an invention disclosure and suggest they review it overnight and get into groups to draft claims,” says Sayre, who was joined in the program

by associate Naveen Modi of Finnegan, Henderson, Farabow, Garrett & Dunner in Washington, D.C. “We were just blown away the next morning with students showing up with several dozen pages of claims. They were just so into it.” They want to learn patent law to help the progress of their countries, Sayre says.



Bob Sayre, at far right, with the participants, organizers, and instructors of his patent drafting course. They posed in front of the African Regional Intellectual Property Office in Harare, Zimbabwe.



LISA HAILE
DLA Piper, Conservation
Through Public Health

DLA Piper IP partner Lisa Haile has been obsessed with monkeys and gorillas her entire life. So when the opportunity arose for her to handle a pro bono trademark project for an organization dedicated to improving public health through working with monkeys, she knew it “landed on her desk for a reason.”

“Other kids wanted dogs; I wanted a monkey,” the San Diego-based attorney says. The Uganda-based Conservation Through Public Health contacted DLA Piper looking for help with trademark protection for its logo, some of its tag lines and the names of its education programs. Lisa Dewey, the firm’s pro bono partner knew of Haile’s interest in monkeys, so it was easy for her to find the right person for the IP work.

In many African villages, especially in Uganda, apes and monkeys live in close proximity to humans. Because of their genetic similarity, it’s possible for humans to catch diseases from the animals and vice versa, and many of the monkeys and gorillas are endangered. Haile tells a story of gorillas venturing down into the village in search of bananas and catching scabies. “Since the health standards aren’t that good,” she says, “the gorillas contract human diseases. It’s the people and the animals coming together.” The center works to improve the health of both the humans and the primates in order to save the primates.

Haile worked with the center to protect the names of programs like the Silverback Gorilla Camp and Gorilla Clinic, as well as the group’s logo. She’s also worked with Dr. Gladys Kalema-Zikusoka, the center’s founder, on the IP issues involved in publishing a book, as well as setting up agreements for visiting veterinarians and scientists. “They’re so grateful,” says Haile of the CTPH directors. “I got a beautiful note saying, ‘We want to thank you and your team.’ How often do your clients do that? I love the [pro bono] requirement.” (DLA Piper requires all attorneys to do at least 20 hours of pro bono work a year.)

JOSEPH NICHOLSON
Kenyon & Kenyon, Volunteer Lawyers for the Arts

Most major cities have a nonprofit that helps “starving artists,” following in the footsteps of New York’s nearly 40-year-old nonprofit Volunteer Lawyers for the Arts. These groups typically work with artists who have creative work to be protected but cannot afford to pay a lawyer. Joseph

Nicholson has worked at Kenyon & Kenyon for 18 years, and pro bono for VLA for just as long.

“What I like about VLA,” says Nicholson, who is now a trademark and copyright partner, “is that they have a very broad scope of possible projects. That gives junior associates more client contact than they would otherwise have.”

The typical VLA cases have the volunteer lawyer representing the equivalent of David (the artist) against Goliath (a record company or publisher) in the courtroom. For instance, Kenyon & Kenyon represented Allen Radu, who took photos of John Lennon’s Montreal “Bed-In” with Yoko Ono in 1969. Radu contacted VLA when Ono threatened to sue him. Ultimately, says Nicholson, “we had a long negotiation over who owned the rights and what could be done with the photos. Under U.S. and Canadian law, it was clear Radu owned the rights, and Ono backed down.” Radu agreed on some limitations, which included not exploiting the photos for commercial gain, but he is still able to exhibit at Beatles memorabilia shows. ■

