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Foreward to the Fall 1997 Edition

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Foreword to the Fall 1997 Edition

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{1} I am very honored to have been asked to write this brief foreword for Volume 3, Issue 1 of the University of Florida's on-line law journal, the Journal of Technology Law and Policy. In its three years of existence, the journal has provided a forum for authors to share their views and insights on some of the most significant contemporary issues relating to intellectual property and technology law. As the importance of this body of law continues to grow at an exponential rate, lawyers and other policymakers need access to well-reasoned commentary on issues the likes of which no one had ever dreamed of when intellectual property laws began to develop. Whether laws that were created for a very different world can continue to keep pace with modern technology--as the saying goes, whether we can force "new wine into old wineskins"--or whether newer, different approaches are necessary presents one of the most interesting questions facing legal policymakers today.

{2} Our current issue highlights some of the ways in which legal policymakers have addressed, or may consider addressing, the adaptation of intellectual property law to a changing world. Cary Fowler's *By Policy or Law: The Challenge of Determining the Status and Future of Agro Diversity* discusses the difficulty of protecting plant varieties under existing patent and plant patent laws in the United States and under international law, and suggests some possible alternatives. In *Computer Associates v. Altai: French Software Copyright Act Not Barred by U.S. Decision*, Sue Mota discusses the applicability of issue and claim preclusion doctrine to a dispute involving the alleged infringement of copyrightable elements in computer software--an issue that policymakers will continue to confront as cases involving software copyrights (and patents) continue to make their way into the courts of countries having different standards for assessing infringement. (Having just completed teaching a course in International Intellectual Property at the University of Florida's Summer Abroad Program in Montpellier, France, I

can attest to just how important some of these differences remain, and to how the intellectual property lawyer must be familiar not only with the laws of her own jurisdiction but of others as well.) Wesley Austin's *A Thoughtful and Practical Analysis of Database Protection Under Copyright Law, and a Critique of Sui Generis Protection* provides yet another example of how different alternatives are available for protecting (or choosing not to protect) an intellectual product, and how American policymakers must ultimately choose between the traditional model exemplified in the Supreme Court's *Feist* decision or following the lead of the European Union in enacting an entirely new form of intellectual property protection for uncopyrightable data. Finally, John Tomaszewski's *The Enforceability of Adhesive Arbitration Clauses in International Software Licenses* discusses another issue of importance to the international technology law bar, and demonstrates how different approaches to the enforceability of arbitration agreements and adhesion contracts can lead to problems in connection with international transactions.

{3} We hope that you find these articles useful in your research or practice, and that you will continue to check out our offerings as they become available on-line. Please let us know how we can improve our product, and share with us the fruits of your research so that we can share them with others.

ENDNOTES

[*] About the Author: Thomas F. Cotter is an Associate Professor and Director of Intellectual Property Studies at the University of Florida College of Law.

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