

NEW CLINICAL PROGRAM TACKLES

TECHNOLOGY TRANSFER

BY JOE SURKIEWICZ

ZOT: IN THE COMIC STRIP B.C., IT'S THE SOUND OF AN ANTEATER SCARFING YET ANOTHER ANT. BUT TO MEDICAL RESEARCHERS AT THE UNIVERSITY OF MARYLAND AT BALTIMORE, ZOT IS AN ACRONYM FOR "ZONULA OCCLUDEN TOXIN." IT'S THE BASIS OF AN EXCITING NEW TECHNOLOGY THAT WILL ALLOW DOCTORS TO ADMINISTER THERAPEUTIC DRUGS, INSULINS AND VACCINES TO PATIENTS ORALLY INSTEAD OF BY NEEDLE. CALLED A "PLATFORM" TECHNOLOGY BECAUSE OF ITS WIDE RANGE OF USES IN HUMAN VACCINES, TREATING DIABETES AND HELPING IMMUNO-COMPROMISED PATIENTS, ZOT PROMISES FAR-REACHING CONSEQUENCES FOR AN ARRAY OF APPLICATIONS.

However, getting ZOT out of the research labs, into the market and placed into the hands of medical professionals won't be easy. There is a world of obstacles in the process of "technology transfer" and not all of them are scientific. Bringing ideas to market is also a legal challenge.

Listen to Stuart Sedlack, marketing coordinator at UMAB's office of technology development (OTD) and the point man for commercializing new technologies developed in UMAB labs: "What should our strategies be? The patent strategy for a platform technology like ZOT is different than a strategy for a narrower technology. We've got to get the best legal counsel and the best patent strategy. There's a lot of money riding on it."

The solution: A new clinical program in technology transfer that is a cooperative effort between UMAB's office of technology development and the University of Maryland School of Law. When it begins this fall, the program's mission will be

two-fold: to remove legal obstacles to the commercialization of technologies developed in UMAB labs and to ensure that law students are plugged into this field.

"As OTD has grown over the last decade, so has its legal needs," explains Associate Dean Mark Sargent. "OTD needed an in-house lawyer. And we've had a need for an expert in intellectual property to train our students—to deal with the cutting edge of the law—especially in biotechnology. But with budget constraints, neither OTD nor the law school could make a hire. Then I had a brainstorm."

It's simple, really: Hire one of the best legal minds in the field of intellectual property as the legal director for OTD . . . and put that person on the law school's faculty to teach, lead seminars and use selected students as "staff" in OTD.

Meet Max Oppenheimer, the newly appointed associate professor at the School of Law who will bring together tal-



ented students and the real-world problems involving intellectual property and tech transfer. He's a highly respected Baltimore attorney specializing in patent, copyright and trademark law and formerly a partner with Venable, Baetjer & Howard. A 1972 graduate of the Harvard Law School, Oppenheimer will fill an unusual position starting this fall as he serves as both legal director of OTD and as a faculty member.

"The clinical program is intriguing," Oppenheimer says. "It is a unique combination: law students and faculty interested in protecting technology from a legal standpoint, coupled with a research institution with technology to protect—and an administration with the vision to see the synergy."

Adds Sargent: "Creating such an unusual joint position enabled us to attract a talented individual. By having students working with a real client—UMAB—with real problems, under the supervision of someone as talented as Max, we'll be pioneering a new way of teaching intellectual property law."

The timing couldn't be better. Intellectual property law is a field moving as fast as the personal computers, modems and networks that link today's high-tech researchers. It wasn't always that way, Oppenheimer says.

"For many years, intellectual property was a backwater in the practice of law. But now you've got companies going public without any assets except intellectual property," explains Oppenheimer, who in the past has served adjunct faculty roles at the School of Law, the Johns Hopkins University and the University of Maryland Baltimore County. "Now lots

of attention is being paid to the field. In biotechnology you've got Human Genome Sciences in Gaithersburg, Maryland, with hundreds of millions of dollars in assets that are mostly intellectual, and that's just one example."

And it's not just biotechnology that's fueling the growing importance of intellectual property law. Take, say, computer software. Ever hear of Bill Gates?

"Take away Microsoft's copyrights and there's not much left of value," Oppenheimer notes. "And Apple and Microsoft did a heroic battle for ownership of the Macintosh computer interface a few years ago. That shows the high value of intellectual property."

In addition to his private practice and teaching roles, Oppenheimer has served as a contributing editor of *PC Tech Journal*, has written more than three dozen articles on copyright, computer issues and the problems of entrepreneurship, and is the author of *Chips!: Strategic Issues in Computer Industry Negotiations*. He's a member of the Maryland State Bar, the U.S. Patent Bar, the District of Columbia Bar, the University of Maryland Technology Enterprise Center board of directors, and other state and national professional associations.

Students in the new clinical program will have their hands full. As they undergo clinical training while helping technology move out of the labs and into the marketplace, the future attorneys will be introduced to intriguing aspects of scientific research and development of high-tech products. The problems of getting new technologies to the market are formidable.

"Imagine that a UMAB faculty member invents a test for detecting colon can-

cer," Sargent says. "Both the university and the inventor are interested in possible revenue flows, but there are questions about who owns what and who has rights to revenue flows—the university, the researcher, or whoever made the grants that funded the research? Moreover, it may or may not be a patentable technology, so other means of protecting ownership may have to be explored. There can be a lot of legal questions to be resolved."

As it shepherds new technologies to the marketplace, OTD is faced with other difficulties while attempting to sell or license new technologies to third parties.

"On the commercial side, we may be doing 10 different agreements with 10 different companies to market one new technology or invention," says OTD's Sedlack. "These companies may have competing or overlapping markets and we'll have to cross our Ts and dot our Is. With more complicated deals, we need more competent legal advice."

With the creation of the technology transfer clinic, UMAB will get that expertise by tapping into the intellectual abilities of the School of Law's faculty and students. Yet the benefits will flow both ways, adds Sargent: "It's a unique and superior approach to training specialists in the law of intellectual property and technology transfer. Our students will not only develop a strong doctrinal and theoretical base in the classroom, they will witness and participate in law in action. There's nothing else like this in legal education."

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