

IP BRIEFS®

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A TRIBUTE TO

Geoff Webster

Dennis Greyvensteyn

Brian Bacon



SAIPL

FROM THE EDITOR



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The Collins dictionary defines an *icon* as “something or someone that is important as a symbol of a particular thing.”; and a *hero* as “a person who is admired for their courage, outstanding achievements, or noble qualities.”

In 2006 WIPO’s World Intellectual Property Day celebrated the heroes and villains of the IP world. As we are focusing on heroes, I won’t mention the villains today. At the top of the list is Thomas Edison for “inventing a lightbulb and other handy stuff” and for these words of wisdom: “I make more mistakes than anyone else I know. And sooner or later I patent most of them.”

More than a decade later, WIPO’s Director General, at the 2021 World IP Day, praised SMEs as the unsung heroes of our economy and said that SMEs account for 90% of all companies worldwide and 70% of global employment. Although this is so, for many of them, there is still a lack of knowledge about how IP can help them translate their ideas into products, and how IP can be a powerful tool for them to not just survive, but also to compete and grow.

In this special edition, we bring tribute to three of our own IP heroes, whom in their own right have protected, defended and educated so many in the translation of innovation to value.

They will live on in our memories.

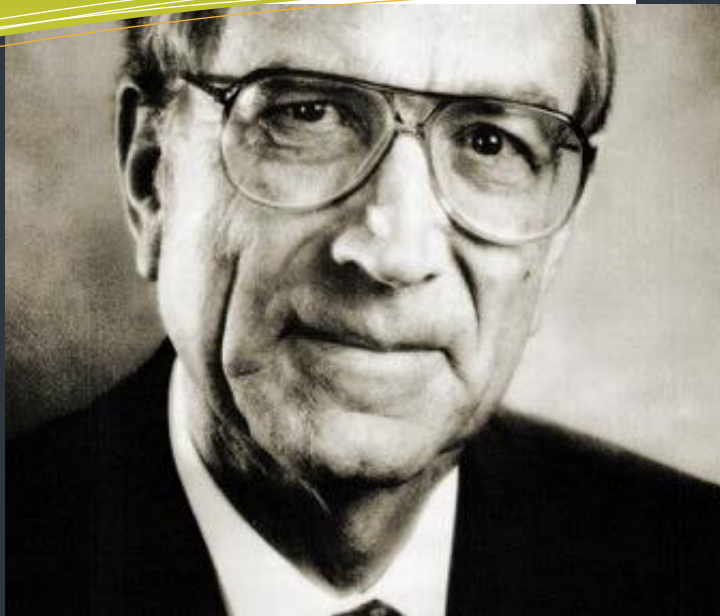
“A human being is a part of the whole called by us universe, a part limited in time and space. He experiences himself, his thoughts and feeling as something separated from the rest, a kind of optical delusion of his consciousness. This delusion is a kind of prison for us, restricting us to our personal desires and to affection for a few persons nearest to us. Our task must be to free ourselves from this prison by widening our circle of compassion to embrace all living creatures and the whole of nature in its beauty.” — Albert Einstein

Eulogy to Geoff Webster

By
Prof Owen Dean

Former Senior Partner,
and now consultant, at
Spoor and Fisher.

*"Geoff was an amazing
man and professional, and
a wonderful human being.
I am truly privileged and
blessed to have known him
and worked with him."*



Perhaps his foremost achievement was his writing and publishing a world-class text book on Trade Mark Law. It was undoubtedly THE authority in its field in South Africa and is frequently quoted with approval in South African courts, including in the Supreme Court of Appeal. It was, and remains, the bible of trade mark law in this country.

My relationship with Geoff Webster started in October 1972, virtually forty-nine years ago. That day was a watershed event in my life, a defining moment. It set the course for my life.

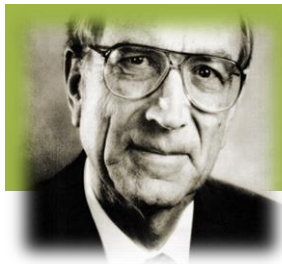
Around two months prior to that I had a job interview with Geoff. It came about in a remarkable way. After graduating with a law degree, I served in the Diplomatic service for six years, four of which were spent at the SA Embassy in The Hague, Netherlands. I returned home in mid-1972, aged 28 and married with two children. I decided that I wanted to become an attorney and sought articles with a law firm.

I saw many law firms in Cape Town, Johannesburg, and Pretoria without success. Everywhere I was met with the response that I was welcome to join but not at the above average salary level that I had set as a target in order to make ends meet. They could get three or four articulated clerks for what I was asking, they said. I despaired. By an extraordinary set of circumstances and a stroke of fate I found myself in August having a job interview with Geoff.

Spoor & Fisher had a vacancy for a qualified attorney with a couple of years' Supreme Court litigation experience, and preferably some knowledge of Trade Mark law. I had none of these credentials. What was I doing at this interview? But I was desperate. This appeared to be my last chance.

Geoff listened sympathetically to my story and asked me probing questions. After the interview I was not optimistic. How could I possibly meet the requirements for the position? This had been a quixotic quest. But, to my surprise and delight, I received a phone call a day or so later informing me that I had got the job at the desired salary. I was elated beyond words but at the same time apprehensive at what I was taking on. Nevertheless, I was reassured by the thought that a person as well versed in the circumstances of legal practice as he was had put faith in me as someone who was up to the job.

This experience showed me several things about Geoff.



He was an imposing figure, but laced with charm. He was empathetic, confident, astute, decisive, willing to take calculated risks, thought and planned long term, and could think out of the box. He knew his own mind and was fiercely independent. He clearly held significant sway and persuasive powers with his peers and could justify to his partners that there was merit in taking on someone who was palpably unqualified for the job but whom he thought had potential. He was also prepared to devote considerable time and effort to teaching me the ropes. The rest, as they say, is history and after completing my articles, I soon became a partner of the firm and served in this capacity for thirty-five years, whereafter I have acted as a consultant to it for another twelve years.

I was not alone in enjoying the benefit of leaning trade mark law and practice at the feet of the Master. Other recruits to Spoor & Fisher followed in my footsteps. In fact, he brought forth an entire new generation of specialist trade mark attorneys, in particular in Spoor & Fisher, but also in other firms through his excellent lecturing and tutorship provided to the profession as a whole.

He set very high standards and was a strict taskmaster.

Not everyone made the grade. But if you gained the imprimatur of his approval you were well on your way in the profession. His disciples formed the backbone of the South African trade mark profession, and his influence has been carried through to current practitioners.

Geoff was an amazing man and professional, and a wonderful human being. I am truly privileged and blessed to have known him and worked with him. He was my teacher, my mentor, my champion, my role model, my career and life counsellor, and in time, my friend. He encouraged me to write legal articles and to speak at seminars and the like, all of which helped me in my development as a lawyer. He has had a profound influence on my career and life in general. I learned everything I know about practicing IP law, and much about life in general, from him. He instilled a deep code of ethics and fairness in me. I am indebted to him beyond description. My admiration and respect for him are boundless.

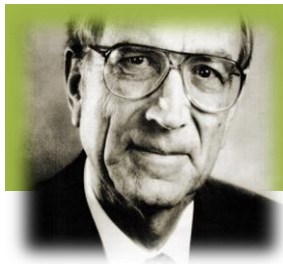
I very soon realized just how eminent and proficient a trade mark lawyer he was and how fortunate I was to be under his tutelage.

Working closely with him, it was clear to me how effective and brilliant he was and in what high esteem he was held by his

opponents, clients, advocates with whom he worked, and international practitioners in the IP field, alike. He promoted my progress in the profession by giving me introductions to his vast network of international legal contacts which enabled me to benefit from, and feed off, his eminent reputation. In general the attitude of overseas associates and contacts was that if you were a product of the Geoff Webster school and carried his endorsement, you must be good. I was placed in a position where I could hit the ground running in building my career.

Geoff was a giant of the IP legal profession. He was for virtually his entire career recognized as the country's trade mark guru. He served as the President of the South African Institute of Patent Agents and was for many years its standout figure. He set up and ran the Institute's training program for aspirant practitioners. He was largely instrumental in revolutionizing the Institute by broadening its ambit beyond patent agents/attorneys so as to grant recognition and parity status to specialized practitioners in trade mark law. At his instigation the Institute was transformed into the South African Institute of Intellectual Property Law, which boosted its membership, prestige and influence.

In so doing a whole new genre of legal practitioner, the duly qualified



and officially recognized specialist Trade Mark Practitioner, was created. This development was and is a monument to his vision and endeavours.

Geoff was indisputably the leading light in Spoor & Fisher, whatever his seniority was, for all the time that we were partners in the firm. His vision and business acumen brought about the creation of Spoor and Fisher, Jersey, which has been an amazing success both in terms of broadening the base of the firms operations and its service delivery, and in providing partners with an invaluable legitimate form of foreign income. His organizational abilities, sheer competence, and business acumen led to him being appointed to the position of Managing Partner of the firm for the latter fifteen or so years of his time with it. He acquitted himself outstandingly in this role and played a significant part in the firms growth and financial success during that period. His stewardship of the firm was effectual and exemplary. This was, however, accomplished at the cost of his virtual withdrawal from professional practice which was a sad loss to both the firm and the IP profession.

He was nonetheless always available and willing to impart his knowledge and professional acumen to the other members of the firm.

Perhaps his foremost achievement was his writing and publishing a world-class text book on Trade Mark Law. His book was undoubtedly THE authority in its field in South Africa and is frequently quoted with approval in South African courts, including in the Supreme Court of Appeal. It was, and remains, the bible of trade mark law in this country. Even foreign jurists have had occasion to refer to, and cite, it in their own jurisdictions, such was its stature and worth. Allied to this was his contribution to South African legislation in Trade Mark law. He chaired the committee which drafted the Trade Marks Act, 1993, and was personally largely responsible for its authorship. It is an outstanding piece of legislation that at least equals the best laws of its type anywhere in the world. It has stood the test of time and is good law even to this day, virtually thirty years later. Would that the current government has the wisdom and common sense to call on persons of his ilk to draft contemporary IP legislation!

Geoff's text book set the standard, and provided the inspiration, for other text books in the field of South African IP law.

Books on Patent Law and Copyright Law by other partners of Spoor & Fisher followed through his instigation and encouragement.

In the case of my own book on Copyright Law, he directed a proposal for such a book made by Juta Publishers to me at an early stage in my career and motivated me to write it. He thus created a good opportunity for me and he instilled in me the resolve to carry the project through to fruition, for which I am eternally grateful. It is not a coincidence that all the major text books in the IP field in South Africa have been authored by Spoor & Fisher people.

In conclusion, when Geoff retired from Spoor & Fisher and active practice in 1993 I wrote an article to commemorate the event entitled "The King is Dead – Long Live the King!" (a phrase used by Shakespeare in "Richard II"). My intention in using this phrase in this context was to convey, in a figurative sense, a special meaning: while Geoff, the doyen of the profession, had retired from practice, his heritage and influence would live on and would indelibly remain, and be perpetuated, in the practice of Trade Mark law into the future.

I freely reiterate this phrase, but this time in a literal sense, to convey the message that, although Geoff has passed away, his memory and aura will remain firmly entrenched, and will live on indefinitely, in the minds and hearts of those who had the privilege and honour of knowing him.

DENNIS GREYVENSTEYN - A GENTLE LION'S ROAR



**DENNIS
GREYVENSTEYN**

Dennis Greyvensteyn joined DM Kisch in 1954 to take control of the Trade Mark Department where he practised until mid-1990's

From the humble beginnings of Molteno - a dusty little-known town in the far North of the Eastern Cape Province - Dennis Greyvensteyn became a remarkable trade mark agent and practised in trade mark law for over 40 years at the firm DM Kisch ("Kisch").

After completing Dip Law at the University of the Witwatersrand, post the Second World War, Dennis served as an assistant Magistrate on the West Rand for some years prior to joining Kisch (Patent & Trade Mark Agents, as the firm was then) in the mid 1950's. He joined the firm at about the same time as Dux Truter, Peter Rattray and Adrian Couzyn, with Johan Lamprecht joining the firm later.

Dennis later became head of Kisch's Trade Marks Department and a partner. He practised and worked for Kisch as a trade mark agent until the mid-1990's when he finally retired from active practice.

During his many years in practice, Dennis registered numerous trade marks in Africa and abroad. Some of his international clients included companies such as Shell International,

Barclays Bank, the Beecham Group and GlaxoSmith Kline, Dunlop, major Scotch whisky manufacturers, Pfizer, Merck, Philip Morris, Bata Footwear, Sanofi, Societe Generale, and major French wine and liquor manufacturers. The major South African clients included First National Bank, Spar, OK Bazaars (as it then was), Foodcorp, and others. He also conducted trade mark litigation for a number of his foreign and local clients.

He was a thorough gentleman, and a gentle person in all respects, and was always friendly, courteous and diplomatic. He trained many aspirant trade mark practitioners over the years and was without doubt an outstanding and admired practitioner and trade mark professional.

Dennis was known as a "people's person" through-and-through. He was highly respected, and well-liked, by his colleagues, clients and correspondents, both locally and abroad. He, and his ever-supportive wife, Madge, attended many international IP and trade mark conferences, and they were regarded as excellent ambassadors for both South Africa and the IP profession.

Dennis Greyvensteyn and his origins

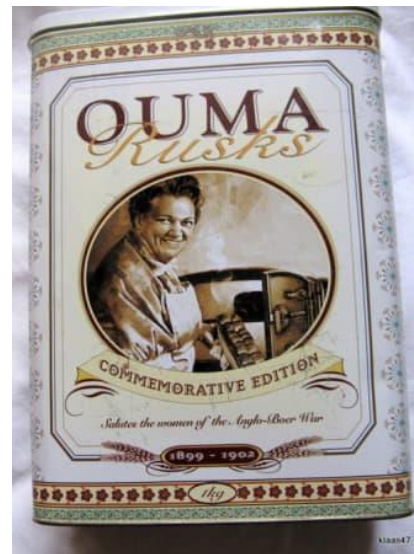
Dennis was born and reared in Molteno where the extended Greyvensteyn family was well-known, with his father owning the local Ford garage. His aunt, Ouma Greyvenstein (also known as Nannie), was a baker of note in town. In 1939, she and a number of local ladies were each given half-a-crown by the local "dominee" to start projects that could help local needy families. She decided to bake and sell her tasty buttermilk rusks to raise money and assist in this cause. Her welfare project was so successful that she later started selling her rusks as a business throughout the district. After he had matriculated, Dennis decided to study law and moved to Johannesburg to study at the University of the Witwatersrand. However, fate was to delay that phase of his life for a few years.

Dennis Greyvensteyn - the soldier and the start of his professional life

Shortly after Dennis started his law studies, World War 2 broke out, and he volunteered to join the armed forces. He was deployed to serve in the South African Air Force (SAAF) and when he was sent "up north" with the SAAF to serve in the north African ("desert") campaign, he was seconded to serve in the intelligence services of the Royal Air Force (RAF). He was soon sent to Malta (which was strategically important to the Allies both for the desert campaign and later for the invasion of Sicily and thereafter southern Italy). The island of Malta, especially its harbour, allied ships, the air-force bases, and of course the poor starving residents of Malta, were bombed mercilessly by the German Luftwaffe Stuka dive-bombers (based only 150 kilometers away in Sicily). Dennis suffered with the rest of Malta which interestingly after the war was awarded the George Cross by King George VI for its bravery – the only island or place ever to receive that award – and

Dennis in turn was honoured by the King after the war with MBE status (and the medal) "for meritorious service".

In 1946, after his demobilization, Dennis the ex-RAF intelligence officer, returned to Wits University to complete his law studies. His room-mate was his cousin, Andre Greyvensteyn (aka Leon), the son of Ouma Greyvensteyn. Andre was studying to obtain a B Com degree, and after his studies started a rusk-making business with his mother, based on his mother's rusk-baking expertise and on his business knowledge and skills.



A trade mark that Dennis was asked to register for the business in his early days at Kisch was the OUMA trade mark, which included a depiction of Ouma Greyvensteyn

in front of her home baking oven.

Another initial aspect of the rusk business was that Andre and his mother obtained the first industrial loan that the Industrial Development Corporation (IDC) issued after it was established - in order to fund the building of the Greyvensteyn factory outside Molteno, and to purchase the equipment necessary for mixing, baking and drying their rusks.

To this day the OUMA rusks factory is still located and operating outside Molteno, and it is proudly still the major employer in Molteno.

Several years later, Andre Greyvensteyn wanting to expand the rusks-base of the family business, decided to venture into the field of potato crisps (-about which he knew nothing at all).

In his travels to the United States of America and visits to various crisps manufacturers to learn about that product and its business he met with Pepsico, the start of a career-long business relationship which later resulted in the licensed use to the "FRITOS" brand and its corn-based snack product from Pepsico. In his quest to find a brand for his new potato crisps business, Andre thought of using the name "LION". Dennis advised against this choice as in his opinion, SA Breweries with their widely-known LION beer brand was likely to object. A short while later Andre returned to consult with Dennis, indicating that he had an alternate idea namely of using the name and trade mark "SIMBA" (-the Swahili word for "lion"). Dennis concurred and the friendly lion "SIMBA" was born and registered for Andre's new potato crisps business.



Dennis Greyvensteyn – another kind of Lion!

Dennis and Madge (who was a primary school teacher) were married in the 1950's and settled in Randfontein. They had two daughters, Sandra and Cheryl, who were reared with much love, and grew to be delightful and charming women with families of their own who in turn brought grandchildren into Dennis' and Madge's lives.

They adopted Jo Oswald who was in her teens at the time, and who later became a senior nursing sister and then a hospital matron in Johannesburg.

Dennis and Madge were interested in local and community affairs and in the early 1970's Madge stood for election as a member of the Randfontein City Council for the (old) Progressive Party. By that time, they were both members of the Progressive Party which clearly did not appear to have much support in (conservative) Randfontein. However, she and Dennis worked hard in canvassing the local residents, and, contrary to most predictions, Madge won her ward election. When it came to electing the mayor, because the other parties elected to the council could not agree to a mayor from amongst their own ranks, Madge was elected as the first woman mayor in Randfontein (-and it is believed in South Africa)! Dennis, with his quick wit, was always quick to point out that he was not the mayoress of Randfontein at that time - but the mayor's husband! Madge went on to serve her 5-year term on the Randfontein City Council with distinction.

Dennis had always shown a heart - and in fact he had a passion - for helping his fellow-humans and he therefore became a member of the Lions International service organization (the "Lions"¹). In 1965 he became the Charter (i.e. the inaugural) President of the Lions Club of Randfontein (of which he was also the co-founder). He was elected as the District Governor of District 410B in 1973-74 (for the Transvaal, at that time, and Swaziland - now Eswatini), and was later elected as Council Chairman for South Africa, Swaziland (Eswatini) and South-West Africa (Namibia). In 1978 he was accorded the singular honour

¹ Lions Clubs International Foundation (LCIF), is a 501(c)(3) tax-exempt public charitable organization. Lions Clubs International (LCI) is a 501(c)(4) tax-exempt social welfare organization. Their vision is to empower Lions

clubs, volunteers, and partners to improve health and well-being, strengthen communities, and support those in need through humanitarian services and grants that impact lives globally, and encourage peace and international understanding.

of being elected as (the first South African) international Director of Lions Clubs International and served in this capacity from 1978 to 1980. Only three South Africans, including Dennis, ever held this honourable election.

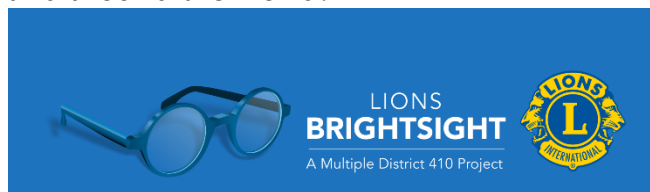


As part of his international duties, Dennis was required to visit and encourage the growth of Lions Clubs and their service activities in India. That was not always an easy task with India's generally hostile attitude towards South Africa because of its racial policies. Despite this animosity, Dennis and Madge held many life-long friendships in India, leading to some fascinating holidays in India with the Lions friends. Over the years Dennis and Madge also regularly attended Lions International Conventions held in various countries around the world.

Dennis and Madge relocated from Randfontein to Bryanston in the 1980's and then transferred to the Lions Club of Illovo where he was a source of inspiration and guidance for his fellow Lions club-members - a true mentor. He was well-respected and liked by Lions locally, and around the world as a Director - the embodiment of the spirit of Lionism.

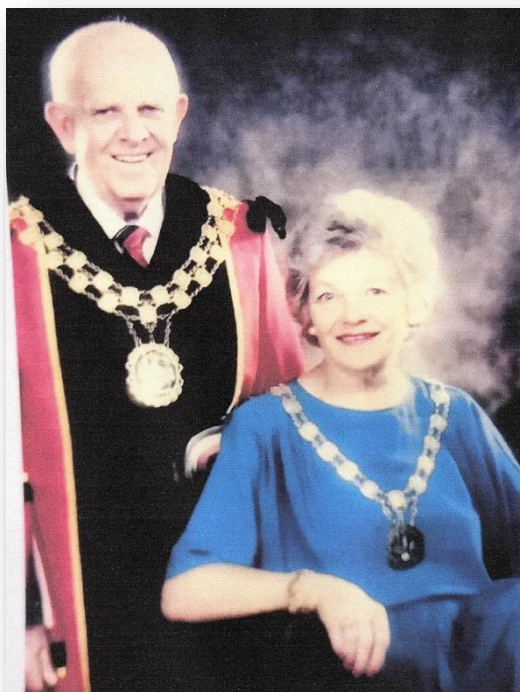
Dennis was not materialistic in his nature, not only did he give much of his spare time to serving less privileged people all around the globe, but he also donated much of his income

over the years to various Lions projects. An important project that he supported with great enthusiasm was the Lions BRIGHTSIGHT project which provided cornea-transplants free of charge to blind people in South Africa and around the world.



Dennis Greyvensteyn - dipping into politics himself!

As Dennis was nearing the end of his career, and the Kisch Trade Mark Department had expanded considerably, the Progressive Federal Party ('the PFP' as it was then) approached him in the late 1980's to stand for election to the Sandton City Council.



Dennis agreed, and he and Madge then (again) plunged into canvassing in the contested ward with great gusto and energy (-and supported by a dedicated band of supporters, friends and family). Dennis was duly elected as a Sandton council member, and interestingly, at the first Council meeting, because the two major parties/groups elected to the Council had an

equal number of council members and votes, neither could obtain a majority in electing the mayor. However, Dennis was accepted as being the “honest broker” and hence he was elected as the Mayor of Sandton (with Madge being the mayoress!). How unique and remarkable that, as a married couple, they had achieved the unique honour of each of them being elected as a city mayor!

Dennis Greyvensteyn – the modest man and gentleman in the IP profession

Dennis played a somewhat low-key role in the IP profession, and simply got on with the work at hand. He was never heard to say a nasty word about any of his colleagues and he seemed to get along with everyone. He was always friendly and positive, he loved the world, its people and his profession, and he would share his wit (-sometimes self-deprecating) and wisdom freely. His staff admired and quite clearly loved working for him – some working for him (-and for no-one else!) loyally for several decades.

As to his wit, one day near the end of his career he mentioned, tongue-in-cheek, at a lunch with his colleagues at Kisch, that he was concerned about meeting St Peter at the Pearly Gates. When asked why he was concerned, he explained that St Peter was sure to ask him what he done with his life that was worthy – and that he would have to admit to St Peter that he had earned his living by deciding every day whether words such as BONGO and CONGO were confusingly similar!

Another abiding memory of Dennis at the office was the unique way in which he could communicate skepticism. He would bring a forefinger to his one lower eye-lid and say: “Do you see the green in my eye?”

Dennis left for the Pearly Gates in 2009, to follow Madge. His memory will endure as a unique and admirable man in many ways.

His kindness, gentle manner, and his nobility of spirit distinguished him from others. He was an exemplary figure and a quiet, yet outstanding figure and role model/mentor for younger professionals. In this way, he was an IP icon of a different kind.

Those who worked with Dennis, or knew him in any other context, will never forget him, and it is fitting that, in closing, we pay him two lasting tributes –

*“They also serve who only stand and wait”
(from the poet Milton on his blindness); and*

*“Ave atque Vale, Frater”.
(from the Roman poet Catullus on bidding farewell at
his brother’s graveside)*

BRIAN BACON....IN MEMORIAM

BY COLIN TRUTER, PATENT ATTORNEY AND DIRECTOR AT BRIAN BACON INC.

Brian Bacon was born in 1939 in the United Kingdom. After surviving the Second World War and Rock-n-Roll, he took a job as factotum at Haseltine Lake, but after a few days on the job, he approached the managing partner and told him that he belongs on the other side of the desk. To achieve that, he promptly studied mechanical engineering, trained at Haseltine Lake, and sat the patent agent examination. However, he left for Canada to join Smart and Bigger (without even waiting for his exam results) and worked there for a few years before briefly returning to the UK and eventually leaving for South Africa to settle down and join Adams & Adams in Pretoria the early 1970's.

While at Adams & Adams, he met his wife (Gillian), was made partner, and accepted a challenge in the late 1970's to establish a branch in Cape Town – where Dr Richard Gerntholtz was the only

practicing patent attorney at the time. Brian worked at Adams & Adams in Cape Town for about 20 years until he approached retirement age, but had no appetite for a rocking chair and set out to establish his own firm in 1998 – now known as Brian Bacon Inc. He undertook to retire as soon as his enthusiasm waned, but time caught up with him and he passed away in May 2019, shortly after shutting down his laptop computer in hospital – a fitting end to five decades of practice.

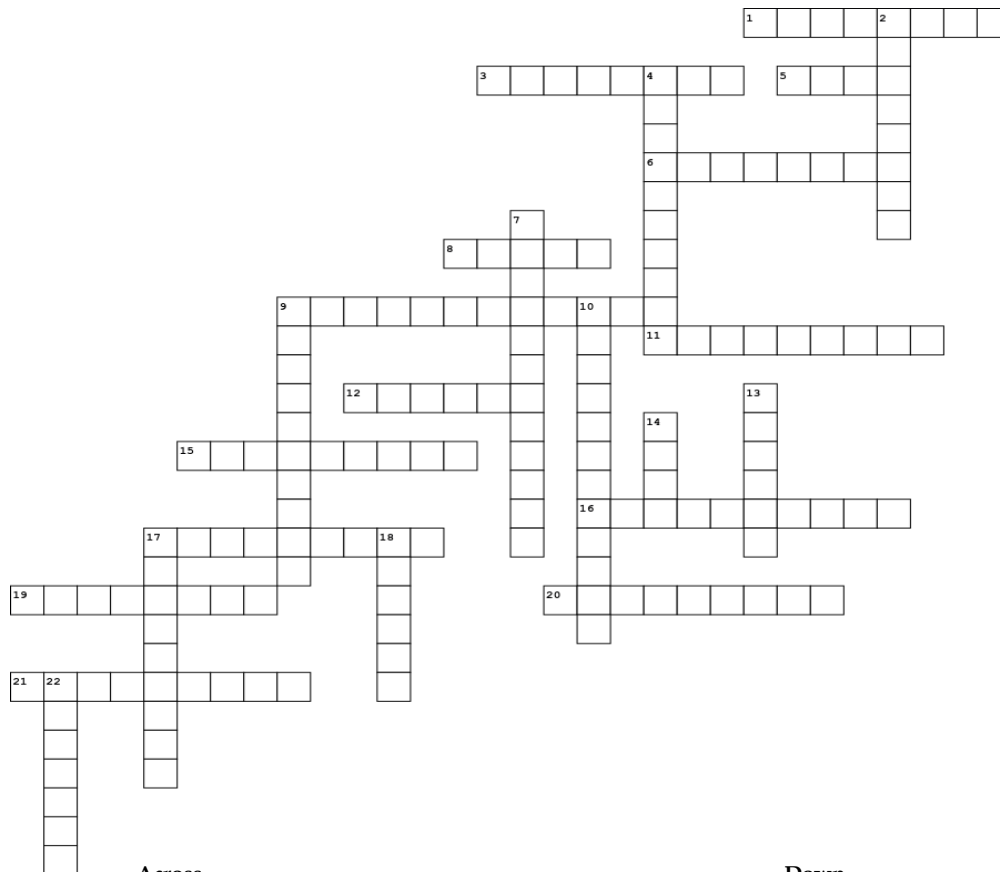
Brian was a revered patent attorney, with a remarkably quick grasp of technology and a talent for drafting patent specifications, but he also had a very versatile practice and was no stranger to litigation in all aspects of IP law. However, in addition to his remarkable professional capabilities, he was admired for his generosity of heart, his endless enthusiasm, and his unfailing sense of humour.



Brian Beacon is remembered for his range and depth of IP skills, and his unwavering work ethic, but also for his remarkable ability to retain his senses of compassion and humour irrespective of the challenges of the day.

One the most telling affirmations of Brian's virtues must be the flood of messages we received after his death, from colleagues (locally and around the world), clients and friends. And these messages almost invariably paid tribute to his competence, wit and gentle nature.

INTELLECTUAL PROPERTY



Across

1. / a party that accepted the contract
3. / copyright protects works which are traditionally divided into: art works and ...
5. / abbreviation of World Intellectual Property Organization
6. / an expert in the technical sphere who created the invention or is the author of the utility model
8. / Convention for the protection of industrial property
9. / the right of the authors of the art works to per cent share from the sale of their art works on the art market
11. / type of marks which are more effective as they can be easily perceived aurally and visually
12. / a new international agreement in this sphere, which was signed in 1973
15. / person who jointly created the work
16. / those which are considered to be concluded from the moment of achieving agreement on all essential terms in the form required by legislation
17. / actor of theatre and cinema, singer, musician, dancer, conductor of musical composition and other person may be defined as ...
19. / / bilateral or multilateral legal acts, while actions of one person directed at establishment, change or termination of civil rights and duties may be considered as a legal act
20. / persons owning a patent for invention, patent for a design and utility model
21. / / the exclusive right to make copies, license, and otherwise exploit a literary, musical, or artistic work, whether printed, audio, video, etc

Down

2. / rights which include the exclusive right to use this work; the exclusive right to allow or forbid using this work by other persons are called..
4. / a contract that conveys an ownership interest in intellectual property, whether outright or conditional, or whole or partial
7. / which organization that manages tv or radio stations
9. / is achieved due to the efforts of the team, understanding of market needs, in particular consumers' needs, ability to organize business activity
10. / property that results from original creative thought, as patents, copyright material, and trademarks
13. / a limited duration property right relating to an invention
14. / convention for the protection of literary and artistic works
17. / a sound recording on the relevant medium of the performance or any other sounds included into audio-visual work is called ...
18. / any person or a group of persons who create their works in any field with the purpose of profit earning or other purposes
22. / A party that offered to conclude a contract is called ..

