

blog

The IAM IP personalities of 2010

The snow lies thick outside, the thermometer is well below zero. I can smell mince pies baking and that sounds like a choir on the telly. It's Christmas, which means it's time for this blog to take a break. But before we close down for 2010, following is *IAM's* entirely subjective list of the IP personalities of 2010. I've cheated a bit because, as you'll see, it's not 10 individuals - there are some organisations in there too, as well as a whole country. But you know what I mean! Everyone and everything below has made a big impression in 2010 and most promise to do it again, if not more so, next year as well. So, in alphabetical order, here goes:

- [Benoît Battistelli](#) - After a selection process that lasted for months and was notable for its [complete lack of transparency](#), Benoît Battistelli - an experienced operator in the world of patent politics with a strong track record as the head of France's IP office - [was chosen](#) as the president-elect of the European Patent Office in March. He officially took charge on [1st July](#). It is too early for him to have made a lasting impact, but he has already stamped his mark. Battistelli clearly [sees the world differently](#) to his predecessor Alison Brimelow, while [a deal](#) he has recently signed with Google's translation business may ease through the creation of whatever unitary patent right does emerge in Europe over the coming years.
- China - Yes, piracy is terrible and counterfeiting is just as bad, if not worse; and, yes, the authorities need to do a lot more about the enforcement of all IP rights. But if you concentrate only on these negatives you are missing the really big story coming out of China. And that's patents. The Chinese and their government seem to get them like few others on the planet - perhaps because there are [so many engineers](#) among the ruling elite. Consider this: [more than one million](#) applications filed in 2010 (well over 300,000 of them for examined invention patents), [a surge in PCT filings](#) by Chinese companies, the publication of a [10-year patent plan](#) with a stated aim of owning pivotal rights in all established and emerging industries, education in the schools, [more litigation](#) than the US, and so on. Anyone who is involved in patents and ignores China does so at their peril. [A new patent superpower](#) has arrived.
- [John Desmarais](#) - In June, [it emerged](#) that Round Rock Research, an NPE established by this New York-based litigator, had acquired more than 20% of Micron Technology's patents. It is now busy monetising the portfolio, and [seemingly very successfully](#). Not content with that, another NPE that Desmarais created is [currently litigating patents](#) in the Eastern District of Texas that it bought from Intellectual Ventures, while Desmarais himself is acting as a lead counsel to IV in one of the cases it brought following the firm's decision to get directly involved in patent litigation for the very first time (see below). One of a new breed of [patent privateers](#), Desmarais probably has not had a busier year than 2010, or a more lucrative one.
- [Melissa Finocchio](#) - For eight years Intellectual Ventures managed to stay out of court [while claiming](#) that litigation is just about the most inefficient way there is to monetise patents. But in the second week of December that all changed when [IV announced](#) it was taking action against companies in the software security, DRAM and Flash memory, and FPGA industries. Leading the charge was Melissa Finocchio, IV's recently appointed director of litigation. There would have been a number of people at IV involved in the final decision to press the nuclear button, going all the way to the top no doubt, but in the end Finocchio's call would have been pivotal. And now it is her job to make sure that IV wins -

whether in the courtroom or through settlement. There is an awful lot riding on her ability to do the job well. So no pressure there then!

- [Bernard Frohwitter](#) - In Germany patent litigation is relatively cheap and does not take too long. If you are the winning plaintiff the chances are you will get an injunction. With that you can make life very difficult for a losing defendant that does not play ball. Bernard Frohwitter is one of Germany's top litigators; he is also an owner of [IPCom](#), an NPE that could be on the verge of forcing [Nokia and HTC](#) to choose between negotiating a licensing deal or withdrawing product lines from the country. It all hinges on an injunction and whether IPCom will get one [following a decision](#) from the Federal Patent Court upholding the validity of patents that Nokia and HTC had challenged. If it does, and Frohwitter is confident it will, then a certain kind of NPE - one which possesses strong and enforceable patents - may become a lot more common in what is Europe's most lucrative market.

- [Horacio Gutierrez](#) - It's been quite a year for Microsoft's global head of IP. Since taking over from Marshall Phelps, Gutierrez has established himself as one of the key operators in the global IP marketplace. From overseeing the [purchase of patents](#) from Novell for \$450 million, through negotiating any number of [licensing deals](#), to warning about the IP challenges posed by [cloud computing](#), Gutierrez was at the heart of many of the big IP developments during 2010. That will continue in 2011, no doubt.

- INTIPSA steering committee - Has there ever been a more productive meal enjoyed by friends? In December 2009, [Jon Calvert](#), [Matthew Dixon](#), [Simon Edwards](#), [Ben Goodger](#), [Jackie Maguire](#), [John Pryor](#) and [Mark Thompson](#) got together in a Chinese restaurant in London to celebrate their inclusion in the first edition of the [IAM Strategists 250](#). They got to talking about creating an organisation specifically for IP strategists and, along with [Ian Harvey](#) (another UK-based 250 member), set about establishing one. [Over 250 people](#) from around the world have now expressed an interest in being involved in the [International IP Strategists Association](#) and it is due to launch formally in the [spring of 2011](#). It's one thing having a good idea, quite another to take the time and have the skill to see it through to reality. Calvert, Dixon, Edwards, Goodger, Harvey, Maguire, Pryor and Thompson are on the verge of doing just that.

- [Lazard](#) and the [Global IP Law Group](#) - [If the reports](#) are correct, the sale of the Nortel patent portfolio could see a total of over \$1 billion raised. If that happens it will be thanks in no small part to Lazards and the Global IP Law Group, the two organisations responsible for cataloguing what is available and for then devising the method by which to offer it to potential buyers. At the start of the year there was talk of creating [a standalone licensing company](#) to exploit the Nortel portfolio on an on-going basis. Wisely, this option was rejected, as was any idea of offering the whole portfolio as a single lot. Instead, it has been divided up, with entities invited to submit bids for the individual parts. We should learn the final results some time in January.

- [Cheryl Milone](#) - [Article One Partners](#), the company founded and run by Milone, has pioneered the use of [crowd sourcing](#) to identify new information relating to granted patents (or even to potential applications). With her colleagues, Milone has developed a global community of experts who are paid when they uncover material that may lead a client to prior art which has the potential to play a part in invalidating a pesky right. A growing number of companies are using Article One and the techniques it employs could revolutionise litigation and re-examination practices in the US. Article One had a big 2010, culminating in the announcement earlier this month of its [investigation of NTP patents](#). It looks set to have even bigger years in the future.

- [Vincent Van Quickenborne](#) - Europe has been trying and failing to create a unitary patent right covering the whole of the EU for decades. In November, [it gave up](#). Instead, a group of countries - including all the main patent jurisdictions - [decided to go it alone](#) and get on with the job themselves. As holder of the EU presidency when this momentous decision was taken, Belgium had a huge role to play in getting member states to such a point. And central to the efforts was enterprise minister Vincent Van Quickenborne. A zone of what could end up being [23 countries](#) in which a unitary patent right applies is not ideal - and there are many questions still to resolve, not least of which is whether there will be a role for a central patent court - but it is a whole lot better than what we have currently. Van Quickenborne has helped to create hope for a cheaper and more predictable way of securing patent protection in Europe where previously there had been none. It is now up to the Hungarians and then the Poles, the next two holders of the EU presidency, to get a final deal done in 2011.

And that is that. I am off to rediscover my family, watch old films, have the odd bracing walk and generally recharge. I hope that each and every reader of this blog gets the chance to do something similar over the coming week or so. From all of us at *IAM*, thank-you so much for all of your support during what has been a very busy 2010. Have a very merry Christmas period and the happiest of new years. See you all again at the start of 2011.