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1A Plenary Session. Government Leaders' Perspectives on IP

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Session 1A

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**TWENTY-NINTH ANNUAL CONFERENCE
INTERNATIONAL INTELLECTUAL PROPERTY
LAW & POLICY**

Thursday, April 21, 2022 – 8:15 a.m.

**SESSION 1: Plenary Sessions
1A. *Government Leaders' Perspectives on IP***

Moderator:

Hugh C. Hansen

Fordham University School of Law, New York

Speakers:

António Campinos

European Patent Office (EPO), Munich

Unitary Patent and UPC: A New Opportunity

Shira Perlmutter

U.S. Copyright Office, Washington, D.C.

Expanding Access to the Copyright System

Marco Giorello

European Commission, Brussels

Copyright Policy in the EU- What's on and What's Next?

Antony S. Taubman

World Trade Organization (WTO), Geneva

COVID-19 and the TRIPS Agreement – What Lessons for the Future?

Kathi Vidal

U.S. Patent and Trademark Office (USPTO), Alexandria

Back to First Principles: Promoting Innovation for the Public Good

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HUGH C. HANSEN: Our first speaker António Campinos. EPO. How are you?

ANTÓNIO CAMPINOS: I'm fine, and you?

HUGH C. HANSEN: Pretty good. The EPO--

ANTÓNIO CAMPINOS: You look good.

HUGH C. HANSEN: [chuckles] The EPO, how is that these days? I'm just curious. Is it doing well?

ANTÓNIO CAMPINOS: Yes, I think I'd take into account the circumstances that we're living through for the past two years, we're doing pretty well. Yes, Hugh. Basically, everybody's working from home, except myself as you can see.

HUGH C. HANSEN: Yes, I can see that. António. Six minutes? We are going to--

ANTÓNIO CAMPINOS: Yes, sir.

HUGH C. HANSEN: We're keeping time. Take it away.

ANTÓNIO CAMPINOS: Okay. Thank you very much, Hugh and indeed, everyone at Fordham, for giving me this chance to say a few words. Of course before, I begin I would like to congratulate Kathi Vidal in her appointment as Under Secretary of Commerce for Intellectual Property, and Director, of course, of USPTO. Very much looking forward to a strong cooperation relationships, Kathi, and I'm impatient to meet you personally.

Now, as for my comments today, I just want to talk about change. The world is changing very fast, not a happy world, as you said, Hugh. Here in the patent system, there's a sense of change ahead of us because later this year or maybe at the beginning of next year we will finally see the launch of the unitary patent here in Europe, and with it, the unified patent court or the UPC. My message to you on this is very simple, you just need to get ready, really get ready for a new era because I do believe this is one of the most significant developments in Europe and IP, and that we will probably ever see in our lifetimes.

The last time we saw this kind of change, Hugh, was with the launch of the classical European patent back in the 70's. Of course I'm biased, but since then it has become more and more attractive to users around the world. We've seen more applications, for example, the latest stats we published a couple of weeks ago. They show a record of close to 170,000 patent applications just last year. An increase of around 5% on the previous year. A part of those, by the way, came from the US. The European patent has also expanded its territory.

We are 38-member state. We started with 16 member states, we are 38 today, plus what we call two extension countries and four validation countries, which makes with a simple examination or a granted patent, you can protect these patents over 44 markets. EPO's work products themselves are in higher demand.

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With these agreements, with agreements with other patent offices that allow also to reuse our product or search products and examination products, today, our work products EPO, the search and examination touch a market of over 2 billion people, a big market.

No matter how strong the European patent is, no matter it's growing coverage or the high quality it helps to deliver, no matter the fact that unitary patent will be based on the semi-quality search and examination of the EPO, we also know that there are further opportunities and challenges that can be addressed by this unitary patent. Firstly, simplification. With a classical European patent, you need national validations in these 44 possibly markets, but unitary patent can be obtained for all participating countries with a simple and one-step examination with EPO.

The current system is also fragmented post-grant as you know, but with different renewal fees of different amounts in different currencies which have to be paid to different national patent office that operate under different legal requirements. The orders of a unitary patent in turn will pay a single renewal fee to the EPO in a single currency, the euro of course, another single legal system with regard to time limits and matters of payments. Secondly, the judicial enforcement of your patent will also become much more simple.

The new UPC will create a uniform, specialized, and efficient framework for patent litigation at European level, putting an end to the need for litigation in different countries for the first time ever. One jurisdiction, perhaps I think the real game changer here. Enhanced legal certainty of course, a simpler harmonized way for patent holders to enforce their rights against potential infringements, and for third parties to challenge validity. That should also mean high quality in the patent system especially given the highly trained, high-quality judges which are currently being chosen by the adversary committee of the UPC.

Of course, enforcement is our topic at the moment. Just this Monday there was an opinion piece in *The New York Times*, Hugh, arguing for better process to challenge bad patents despite all the good work done on the patent trial and appeal board. We can also expect high levels of strategy here in Europe on the work of the UPC, and rightly so, may I say. Certainly, there's also great coverage of the new unitary patent right from the get-go, which will be attractive for businesses.

Under the classical European patent, patent holders sometimes have to choose the territories very carefully, strategizing on certain markets in which to pursue and enforce patent protection. The unitary patent will cover, at least from the start, 17 EU member states automatically when it starts, and in time that could rise up to 25 countries. That market, when you combine the GDP together, it's over \$15 trillion, a big market again, and a population of nearly 400 million people, which is, I think more than the US, Canada and Australia combined.

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Lastly, access to that market in terms of patent protection would also come at a lower cost based on the comparison of the overall cost, so unitary patent will be less expensive than a European patent validated and maintained in 4 of the 25 member states participating in the system. I think I didn't use even my six minutes, Hugh? I cut a long story short. I'm all yours now.

HUGH C. HANSEN: Very well done. I don't do patents for religious reasons, but I know a lot of people are very much interested in them, and in fact are fascinated by them. Panelists, do you have anything you'd like to discuss related to António's talk?

KATHI VIDAL: This is Kathi. I'm happy to provide some comments. So nice to meet you virtually, and I'm very much looking forward to working with you. I received your letter this morning so timely, thank you for that. I want to really congratulate you on the unified patent coordinates. It's such great progress and it's so important to protecting intellectual property in a fair and transparent way, and as you mentioned, more efficiently and cheaply. That's going to give more people access to patent protection, it's going to help us with innovation. Congratulations, kudos, let me know what I can do to help. I look forward to collaborating with you.

ANTÓNIO CAMPINOS: Much, Kathi. Shira, you look good too.

SHIRA PERLMUTTER : Thanks, António. Great to see you.

ANTÓNIO CAMPINOS: You're still alive which is good news.

[laughter]

HUGH C. HANSEN: Thank you very much António. Now, we're all on a first name basis here, so you can call me either Hugh or Huey, Kathi. Pronounce your last name, Vidal or--?

KATHI VIDAL: If we're on a first name basis, it's no worries. You can just call me Kathi. [laughs]

HUGH C. HANSEN: Okay. Congratulations on your appointment in a very exalted position as the head of USPTO. You actually don't have a flag and all that behind you. That's one of those things where someone is doing that for you or actually sitting in front of a flag.

KATHI VIDAL: I am sitting in one of our offices at the USPTO building. Those are, they're actual physical flags.

HUGH C. HANSEN: Wow. Cool. All right, Kathi, take it away.

KATHI VIDAL: Perfect. I'm so delighted to be here today, this is actually day seven of our journey together here at the USPTO. I'm really excited it's remote, because as you know, it took a while to get through all this process of confirmation, and we have a big list of things we want to do. We've been working around the clock and tirelessly over the last week. You'll see the results of that starting to roll out today, I believe. I'm really excited about that. Obviously we

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have a lot of really tough issues that are in front of us. You're going to start to see some of that dealt with, resolved, etcetera.

Some of it is going to take longer, so I would ask all the stakeholders to be patient and continue to dialogue with us while we try and figure out the best way to solve issues in a way that's best for the country. I will also say that you know being here at the USPTO for about seven days now, I could not be more impressed with the talent here, with the exceptionalism, with the passion, with the dedication of everybody that I've worked with. I think together we're going to make great progress in the next years to come.

I also want to say that I'm excited that my first speech, this is actually my first formal speech outside of the USPTO. I did a couple internal ones, including a town hall on day one. I'm excited to sit with this panel. That's what really drew me to speaking today. I think that we really need to work together within the USPTO system, within the US system, with Shira there, within commerce, within the administration to advance intellectual property, to make sure that it's fair, to make sure that it's accessible, and to make sure that it's transparent to all.

I also want to say that I'm really pleased to serve an administration that believes in equity and prosperity. That's focused on prosperity for all Americans. That's focused on equity to make sure that everybody has access. One that believes in action. Although it's taken a while for the PTO to move forward, given that we didn't have political leadership until now, you'll see it across commerce and across the administration that there's much action that's being taken. I also feel very strongly that this administration believes in strong intellectual property protection, and that that protection plays a key role in bridging ideas to impact.

That is so critical to me, and it's one of the reasons why I was so delighted when I was asked to serve in this administration. I've had conversations with Secretary Raimondo and Deputy Secretary Graves on this very issue of how we create jobs, of how we create economic prosperity through our intellectual property system. I also want to talk a little bit today because this is my first speech to the public. I want to talk a little bit about what my goals are here, why I felt so compelled to serve the public. That's because I believe that our innovation system, our patent system, our intellectual property system really needs to work for the public good.

This is not a new idea, this is something that went back to the framers of our constitution. In 1788, James Madison invoked the public good is the entire reason for having a patent system. The framers of our constitution believed that the patent and trademark system would work for economic growth and for higher standard of living for all. In everything that you'll see us do, that is what we're keeping in mind first and foremost, that the system needs to work, to create

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innovation, to incentivize innovation. When I talk about innovation, I mean innovation in terms of product development, in terms of brands, etcetera.

It needs to protect that innovation, not only in the United States but across the globe, and then really needs to bring that innovation to impact. That is what you're going to see, as I said, in everything that we do. In terms of my mission, I see it really as going back to those first principles. It's what our country needs. It's what every country needs. It's the creation of jobs, the creation of economic prosperity of coming up with innovation that's going to solve world problems like climate issues and other issues. Then certainly certain technologies like cleantech and pharmaceuticals, they need the patent system to incentivize innovation to protect that innovation.

We need to think not only about creating that innovation in the first place, creating the breakthrough drugs, like what we've seen with COVID, but we also need to think about incentivizing the follow on innovation, and getting that innovation into the hands of the people that need them. With that, I will keep my remarks short because at bottom, what I'm really focused on is what I call innovation to impact, which is in the first instance, doing everything that we can to incentivize innovation from all.

Getting out into communities, meeting people where they are making sure that everybody has access to innovation, and then protecting that innovation and working with my colleagues on this video to protect that innovation across the globe, make sure that it's fair and transparent. Then, as I said the last part, just getting that innovation to impact. Figuring out ways to fund it, to create collaborations based on that innovation so that we can solve world problems and create greater economic prosperity.

HUGH C. HANSEN: Thank you very much, Kathi. Let me ask you this. Where are we right now? Would you say we're in trouble, things have to be greatly improved, or steady as she goes, we're doing all right? Where are we in terms of those things you said we want to do right now? Where are we on that?

KATHI VIDAL: Hugh, that's a really good question. What I would say is number one, I think within the USPTO, we've laid a lot of groundwork, we've created a lot of collateral. We have camps for innovation. We have outreach programs. We have our regional offices across the country. We've laid a lot of groundwork in the last few years, but we need to connect the dots now. I think that's really what it's going to take. In terms of whether it's steady as we go, that's never been my motto. I wouldn't be here if it was just keeping the ship going straight ahead.

I would say that the us is an incredibly talented, incredibly innovative society. There's so much passion, it's part of our ethos. What we really need to do now is moving government at the same pace that we're moving in innovation. Are

we in a good place? I think we're in a fine place, but we need to do more. We need to be incentivizing and creating, and being innovated, just like all of our companies.

HUGH C. HANSEN: That's great. By the way, have you met any of these other people who are on a panel with you today?

KATHI VIDAL: I'm sure you know this, but Shira was at the USPTO way back in the day. We've had a lot of conversations recently and we share very common goals. I really appreciate that. I'm looking forward to working with her. As for everyone else, this is my first time formally meeting, so I'm looking forward to working with them.

HUGH C. HANSEN: Thank you. Any comments or thoughts from the panel or outside the panel? All right. Shira, why don't you take it away.

SHIRA PERLMUTTER : All right. Thanks, Hugh. I have to say it's really wonderful to see these old and new friends, Kathi, even if only on the screen at this point. Looking forward to next April in New York. I chose as my topic, *Expanding Access to the Copyright System*. That's because I firmly believe that if we're going to maximize the goals of the copyright system, its benefits have to be broadly accessible. I will be echoing Kathi's points on the patent system, but focusing on what is the U.S. Copyright Office doing to accomplish this.

We have two overall major areas of attention, although there's a lot of overlap between them. One is adapting to technological developments. The other is generally expanding access to the system. I'm not suggesting there aren't other important issues as well. There are things we've been working on for a long time, and I don't want people to think we're excluding them now. In terms of technological developments, this is a perennial topic. For more than a quarter-century now we've been talking in particular about the challenges posed by digital technologies, which have evolved fast and furious.

Let me list a number of current issues. First, how does existing law apply to the latest technologies? What is copyrightable and what is infringing? In particular today, the focus is on artificial intelligence. There was a recent decision by the Copyright Review Board, which I'm part of, rejecting an application for registration for a work called *A Recent Entrance to Paradise*. We said that human authorship is required for copyright protection. The patent office has had a similar view on the patent inventor issue. Suzy Wilson, our general counsel, will be talking more about this on a panel this afternoon.

Second question, should the law be changed to better reflect the impact of current technologies? We focused for a long time, for example, on Section 108, the copyright law's library exception. Should it be updated to reflect current library needs and practices? We did a report on Section 512 of the DMCA, the safe harbor for internet service providers, and there have been ongoing follow-up

discussions. The Music Modernization Act of just a couple years ago was one answer to some of these questions because it provided for blanket compulsory licensing of entire repertoires of works by digital services.

A third question: how can or should technology be used to curb online infringement? One very important, but controversial aspect is, what's the relationship of private sector action and government action in this space? We've been doing an inquiry into the voluntary use of technical measures. Recently, a couple of senators have proposed a SMART Copyright Act that would create a new rule-making to identify standard technical measures.

Another question very important to the Copyright Office in our everyday work: how can the use of technology improve government services? We are developing what we're calling an Enterprise Copyright System or ECS, which will be easier to understand and use and make all of our services interconnected and searchable. We also have adopted a goal of continuous development, so we don't in the future wait for our IT to become outmoded before we take action to refresh it.

Then last, but not least, how can the massive amounts of digital data that are now lawfully available best be used? The Office has as one of our main goals, enhancing the use of the troves of data that we collect. We want to use it better internally for purposes of evidence-based policy-making, and we also want to make it publicly available for research and analysis. To that end, I've hired our first ever Chief Economist to add in-house economic expertise.

Then turning to the topic of expanding access: on the internet, everyone is both a creator and a user of works of authorship that are protected by copyright. This is one thing that's a bit different from patents and trademarks.

As a result, individual members of the public are affected by the copyright system in a way that wasn't true in the past. We're focusing on making the system as understandable and accessible as possible to everyone, from individuals to businesses of all sizes. We're calling this Copyright For All. This is, of course, a question of equity, but also it will ultimately expand and enrich culture and knowledge to the benefit of society as a whole.

What does this entail? We're increasing our outreach and education activities, We're identifying and reaching out to previously underserved communities. That includes a upcoming report on women's participation in the registration system. We'll be doing additional research on participation by minority groups and geographical areas around the country; participating in the Commerce Department's CI2, the Council for Inclusive Innovation, and following up on arguments that aspects of the copyright system may in the past have disadvantaged certain groups, for example because of a lack of awareness of legal rights that could affect certain communities more than others.

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Then the new enterprise copyright system, or ECS, will make our services more accessible to those without expertise or the benefit of legal advice.

Finally, the new small claims tribunal that we're about to open will make available the resolution of disputes to people who, until now, have not been able to afford the cost of going to federal court. David Carson will be speaking on this later in the program as well. I think I'm just about out of time. I will stop there.

HUGH C. HANSEN: Thanks very much, Shira. Anybody in the panel want to-- We're going to have a discussion later on, but anything specifically that anyone want to say? Marco?

MARCO GIORELLO: Good morning. Good afternoon to everybody. Shira, quick question, and good morning to you as well of course. What about artificial intelligence? You mentioned it, so I would be curious to know whether there is a real push from stakeholders in the US to change the copyright legislation because of artificial intelligence, or whether this remains a more theoretical academic discussion for the time being. I'm saying this because in Europe, I have the impression that there are a lot of interesting discussions about AI and copyright, but to this stage rather theoretical, I have not sensed a big demand actually from the stakeholders to change the law. What's your assessment there?

SHIRA PERLMUTTER : Good question, Marco. I would say it's not purely theoretical, but there is not at this point a big push to change the law. I think the majority view, and this was reflected in a report that the Patent Office issued a year or two ago, has been that the existing law is probably adequate at this point to handle the issues. Of course, everyone is extremely interested and following the issue closely. To me, the bigger issues are the questions of the ingestion of vast amounts of content that may include copyrighted material, and the extent to which and the circumstances under which that qualifies as fair use. To me, those are the more difficult issues at this point in time. We'll see how that evolves in the courts.

HUGH C. HANSEN: We have about 30-- Shira, you've been now in two mega important and government organizations dealing with IP. Is there any difference that you find in the working or the thinking, or is it basically government workers, it's just that they're going to do what? Tell me, what do you find when you enter these buildings? Is there a difference between them, for instance, Copyright Office and a PTO? Or is what?

SHIRA PERLMUTTER : The Copyright Office, of course, is much smaller and operates on a budget that's minuscule compared to the PTO. The employees at the Copyright Office tend to be more heavily from backgrounds involved in music and the arts, education, and library services. Whereas

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obviously, the PTO employees, a lot of them have backgrounds in science, engineering and other sciences as well.

That makes some difference. The Copyright Office, is also a smaller organization and even though it's part of a larger agency, the Library of Congress, the Library in turn is much smaller than the Commerce Department. That probably leads to a slightly lower degree of structure and formality.

HUGH C. HANSEN: If truth be told, you really don't consider yourself part of the Library of Congress, do you?

SHIRA PERLMUTTER : No, I absolutely do. It's actually a wonderful place to work. There's a lot happening in the Library. There's constantly, especially before the pandemic and starting again now, lectures and exhibits, and performances. It's a fascinating place.

HUGH C. HANSEN: That's great. I think our time is up on this, but we're going to have lots of discussion time later on. Kathi, you wanted to say something, just hold it for the group discussion. I think Marco, it's all yours now.

MARCO GIORELLO: Yes, thanks a lot to Hugh, and also thanks for inviting me. I also wanted to extend my congratulations to Kathi Vidal for her appointment also from Brussels. Six minutes or so, one less than planned, so I will try to do my best. What I want to do now is to give you a brief overview of what is going on in Europe in copyright policy, of course, from the perspective of the European Commission, which I represent today, and because I know that then there will be other panels dealing with several copyright issues later on in the program.

Despite the fact that copyright always triggers new debates and there are always new things coming to the table, I think it's fair to say that the hottest topic in Europe remains the implementation of the copyright reform of the Copyright Directive, which was adopted back in 2019, so we'll focus on that. As a reminder, European directives have to be implemented by member states, translated into national legislation, and member states should have implemented the Directive by June last year. Unfortunately, there have been delays, partly due to COVID.

At this stage, we only have around the half member states which have passed the national legislation. We hope that everybody else which will catch up pretty soon. What I would like to do is to briefly focus on three perspectives actually of where we are in the implementation and the first impacts of the copyright reform. First of all, the policy perspective. Second, the legislative perspective. Third, the market impact perspective.

From a policy point of view, I think what it is most interestingly to note is that once the ball has moved from the Brussels camp to the member states camp, the debate has become less controversial and less heated than it used to be during

the negotiation of the directive. This is not to say that the copyright is an easy topic in Europe like anywhere else in the world at that the moment.

I think that it's quite interesting to see that issues like granting new copyright to press publishers or regulating the relationship between copyright holders and online platforms, which as you know, have been and remain the core aspects of the European copyright reform, appear to be less controversial now than when the Commission put them first on the table. Little by little, they have gained acceptance and I would say that they have been broadly welcomed actually in Europe after the adoption of the directive.

To me, this shows that in the end, the Commission was right to put these things on the table back at the time because despite all the criticisms I think now have managed to convince that clearer rules were needed in particular as regards to the relationship between right holders and platforms.. Of course, on one specific aspect of the reform, which is Article 17 on the relationship between user-generated content platforms and copyright. we are still awaiting the important decision of the European Court of Justice on the challenge brought by Poland on the validity of Article 17 itself.

As many of you may know, the judgment is now expected by next week. On the 26th of April, the court of justice, will have to decide whether Article 17 can be upheld. This is of course still an important element for the completion of the puzzle.

From a legislative perspective, and I'm talking about national legislation, I think most member states that have implemented directive so far have broadly speaking, reproduced, done a cut and paste of the text of the directive. It's interesting to see that there have been additional mechanisms added in a number of countries, mainly as regards to the publisher's right, in particular with a stronger role for public authorities like mediation or tariff-setting systems to facilitate the conclusion of the licenses. This is something which I think will have to be looked at in the future.

Finally, from a market impact perspective, the signals are positive. Of course, it's very early to draw any conclusion, but when you look at how the market has reacted, and again in particular, as regards to the publisher's right, you clearly see that things are moving and changing. Facebook has concluded the licenses to remunerate the publishers in France, while they're still discussing doing so in Germany.

Google has concluded licenses, for example, in Italy, in Austria, and in France. Of course, there are still a lot of controversies but things are moving. I

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think this is the demonstration that the directive has made an impact on the ground.

. Overall, as I said, the assessment is positive but is still a very preliminary assessment, and we will need to see how things evolve in the time, the months and years, and already as of next week, with the judgment of the court of justice. Thank you.

HUGH C. HANSEN: Thank you, Marco. In terms of the member states not adopting directives or whatever or you send out, I remember in the past they were actually pretty good about that. Then there would be a few countries not doing it. Now it seems to be more of that. Is that just civil service delay? Is that that people are actually not on board to these things? What is causing, do you think, the delay in implementing this?

MARCO GIORELLO: That's a good question. My sense, it is that this is mostly civil service delays and administrative reasons. To be very clear I have not sensed delays due to political opposition or to refusal to comply with the European law. Of course, COVID has played a role in that. The situation is not good, is not satisfactory for European commission, to be clear. That's also why we have opened infringement procedures. I think that this is mostly an administrative problem, which is serious but it is not political.

HUGH C. HANSEN: In terms of the countries, which countries do you think are more interested in what's going on in copyright? I know that it is not the same level of interest. Which are the ones that are the most interested?

MARCO GIORELLO: It's not an easy question. I think traditionally, the countries like France, Spain, Italy, so the southern European countries, which have a very strong creative industry, a very strong cinema industry, are those who are more interested, and also, I would say more careful every time that we have a discussion on copyright to make sure that things are done properly or they're done following the national interest on this matter.

Other countries maybe at times a bit less focused on the subject. I think I'm also generalizing a bit too much because there are countries in Europe, which have maybe not a super-strong copyright industry but at the same time, they have a very solid tradition of knowledge of copyright in the national administration that they play an important role. I'm talking about the Nordics, for example. Finland is a country which traditionally has always contributed very actively to copyright policy in Europe.

HUGH C. HANSEN: Any thoughts or comments from the panel? Well, thank you very much. I think we have one final speaker, last but not least. Tony Taubman, how are you?

ANTONY TAUBMAN: Very well. I am the least, however.

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HUGH C. HANSEN: Where are you right this minute?

ANTONY TAUBMAN: I'm in Geneva.

HUGH C. HANSEN: No, I know that. Where, in terms of, are you at home? Are you--

ANTONY TAUBMAN: I'm at home.

HUGH C. HANSEN: You have that thing behind you at home? That's pretty fancy-schmansy, isn't it?

ANTONY TAUBMAN: It's fake, but it's 300 years out of copyright, even with Eldred and Ashcroft.

HUGH C. HANSEN: That's great. Okay, Tony, take it away.

ANTONY TAUBMAN: A real privilege to join this panel. I am the least and the last, I'll try to be quick. If this is indeed, as Professor Lando says, the "Oscars of the IP world," I'm going to be very careful about the jokes despite Hugh's exaltation to have fun, even though I'm safely behind silicon.

In my case, the topic was effectively chosen for me. I really can't ignore the elephant in the room, even though I have to approach it very gingerly. This is the ongoing debate about a proposed waiver of TRIPS obligations for WJ members that would give them a great deal of latitude in adapting their IP systems in response to the pandemic.

Alongside a parallel proposal from the EU to clarify TRIPS, with respect to in particular public non-commercial use and compulsory licensing, this has been the dominant IP issue in the WJ for the last two years. I can't get around that. Numerous scholars, practitioners, and the global public even have weighed in. We've received a petition with over 8 million signatories I think that marginally even exceeds the Hugh Hansen fan club. I don't think there's much overlap in the demographics either, but it's been a dominant issue. At the same time, I've got to treat this with a great deal of difference.

As a mere secretariat flunky, it's really out of line for me to weigh in on what is now a very intensive, very sensitive conversation that's being properly conducted between sovereign governance, it's not the secretariat officials. Indeed it's a very critical time in that discussion. To mix metaphors, the elephant in the room is way above my pay grade, and I will have to stay in my lane. That means confining myself to talking about the context to this debate. I hope mentioning some practical lessons if I have time. We've seen two broad narratives on the question of innovation and access concerning the pandemic.

Firstly, there's never been such rapid innovation and dissemination of a new vaccine. Two years after the virus was identified, at least 72 vaccine candidates had reached phase three stage of development. There's almost 200 candidates altogether. These are on 10 different technology platforms. Innovators have included traditional pharmaceutical firms, startups, public research

organizations. They've been based in over 20 countries right across the development spectrum. The pace of actual rollout of the vaccine has far outstripped any previous vaccine program, so over 65% of the global population vaccinated in just over 18 months.

There are stark abiding inequities in access. The proportion of vaccines delivered per head of population nationally, ranges from 204% to 2.04%. Where you sit on that spectrum is a pretty good measure of how wealthy you are as a nation. It's not surprising that governments, individually and collectively have been looking for answers on how to convert that surge of innovation into effective and equitable access even for those who found their way to the front of the queue for vaccines, and no matter how altruistic, there is also a strong self-interest in working towards universal coverage.

We had the WHO ministerial conference scheduled for last December. This was meant to yield a consensus outcome on what to do about the pandemic. This was abruptly and quite ironically postponed in December because of the emergence of omicron, which we're told was in part a consequence of uneven access to vaccines. Whatever your take on the specific issues, the IP system is unquestionably part of the overall complex ecosystem that enables this innovation, and should in principle enable the public welfare, enhancing access to these exciting new technologies.

We do have some important lessons to learn, even before or aside the resolution of this specific question of TRIPS waivers. Firstly, we've seen how IP has, in one element, been forming new forms of partnership, new ways of working together on innovation and the diffusion of technology. Indeed, the fast pace, the pressure for the pandemic response has hopefully disrupted, I think, some of the business-as-usual assumptions right across the spectrum. We see IP potentially as a much more flexible, more fluid, more adaptable tool, and we do see some of our assumptions being challenged.

Same time, and this pains me to say this, but the international rules do need to be seen in perspective in their practical context. Sometimes the debate about TRIPS has suggested that if we have a temporary waiver of certain TRIPS provisions, that would in itself, just by that one stroke of the pen, do away with any IP obstacles, and would in itself, on the other hand, disrupt the whole innovation ecosystem. The TRIPS waiver debate is, to my mind, really just a subset of the broader question of what should be the scope of freedom to operate a national government, what is the legitimate range of choices.

A waiver, even if it's agreed, that would not in itself override or predetermine the choices of national governments. It would only broaden the scope of options available to them. It's not self-executing in any sense. Really the more consequential questions, and one that we really haven't touched on

adequately, in my view, is what practical choices a national government should take, and on what basis, what factual basis, empirical basis, policy basis? The immediate practical impact of the international system as it is, as it may be clarified, or as it may even be temporarily suspended, that's eclipsed by really a better understanding of the range of options open to domestic agencies today.

This plainly should be considered part of the overall toolkit in addressing what is an unprecedented pandemic. To that end, we really have the beginning of a debate about how to use the full toolkit in a pandemic, which is not business as usual. I think to some extent, the TRIPS waiver debate has consumed a lot of the oxygen we need for that broader debate. That's not to say it's not important, far from it, but once that comes to a conclusion, we'll need to work hard to put the toolkit to work, because I don't think anyone is complacent in this debate. The question is how to take up what we've got and make it a bit more effective. That's my pitch. I've got plenty more to say, but I've got no more time, thank you.

HUGH C. HANSEN: Thank you very much. How long have you been in the WIPO? Yes.

ANTONY TAUBMAN: The--

HUGH C. HANSEN: WTO.

ANTONY TAUBMAN: WTO. I've never really left WIPO of course, you never do. I've been here now for 12 years, nearly 13 years.

HUGH C. HANSEN: Do you find that there's any rivalry between you and other intergovernmental agencies, or are you all on the same page? What's going on there?

ANTONY TAUBMAN: It's a bit disappointing. It's a bit like Shira's comment on her relationship with USPTO. WIPO is vastly larger and richer, and I'm envious of their budget, their staffing component, but it's a very harmonious working relationship, we get on very well. Sorry about that. No news.

HUGH C. HANSEN: In terms of COVID, to some degree, can we be thankful for it because it's made us think about things we wouldn't ordinarily think about that maybe can be improved? Would you say that's true in your area with regard to COVID?

ANTONY TAUBMAN: Definitely. There is the access to medicines issue, and promoting the diversity of innovation mechanisms, and accelerating, and getting rid of obstacles where they exist, but there's also the shift to the online environment. For all the tedium that involves, and I never thought I'd see Hugh Hansen muted by the way, but for all the problems that it involves, it's also opened up new ways of trading with IP. That was really what I would have talked about if we were two years ago when we've see acceleration towards IP as a tradable good in itself.

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That's one of the areas for development that developing countries are very interested in. Now that the majority of their population are forcibly used to working online, it opens up the possibility of digital platforms for trading in creative content from anywhere on the planet. We have seen strong surge of interest in that from developing countries. There's a lot of interest in using this positively as a step up in development.

HUGH C. HANSEN: Do you miss the UK?

ANTONY TAUBMAN: We still have the same queen, and Australia's supposedly an independent nation, although there are constitutional complications in making this fit all together. My family left the UK in the 1860s.

HUGH C. HANSEN: I actually was not speaking necessarily about you, Tony, but you in your--

ANTONY TAUBMAN: Got it. Sorry. [chuckles] Excuse my narcissism. Its been really interesting actually.

HUGH C. HANSEN: In terms of your-- Yes, go on.

ANTONY TAUBMAN: The emergence of the UK as an independent or self-standing member of the WTO has had an impact, because the UK is the mother of jurisprudence for many commonwealth countries. One consequence of it is that the UK is actually caught up with a lot of it's notifications to us about legal developments over the last 25 years. At the mundane level of our every day work, we've got this incredible snapshot of evolution in IP law and policy in an interesting jurisdiction, in a influential jurisdiction in a very short space of time.

Once the shock of the pandemic is put aside, we'll be able to have a very interesting conversation about the evolution of IP law and policy in the time since TRIPS came into being when everything's been subverted. The UK has taken up its role as a self-standing member of the WTO from a TRIPS point of view in a very interesting way.

HUGH C. HANSEN: Tony, where were you born?

ANTONY TAUBMAN: I was born in Australia, in Sydney.

HUGH C. HANSEN: You don't have an Australian accent, do you?

ANTONY TAUBMAN: I do, it's just not a comical cartoonish Crocodile Dundee one, that's all.

HUGH C. HANSEN: Why are you here if you were born in Australia?

ANTONY TAUBMAN: I was called to international service. I was an Australian patent attorney, I got out of IP. I was a diplomat. These two areas converged and I ended up in WIPO. some time ago.

HUGH C. HANSEN: It's interesting when I was first getting interested is that many of the leaders in the UK and IP were from Australia. Are they still disinterested, or are they basically off by themselves now?

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ANTONY TAUBMAN: They used to talk about the Australian IP mafia, and I would point out that the mafia is organized crime.

[laughter]

ANTONY TAUBMAN: There was nothing organized about this, and indeed-- Now, that we still have a healthy day, the UK exported convicts to Australia, we send back world-beating IP experts. That's still happening I think.

HUGH C. HANSEN: That's it for the individual talks, and times, now we're going into the general discussion, which also we will open up with our panel, but also the attendees. Please think about if you want to interject, a comment, a question, or whatever. Right now, just in terms of the panel, I know Kathi wanted to do something, and I cut her off, and said, we can do that in the general discussion. If you want to continue with that, please do.

KATHI VIDAL: Thank you, Hugh, I'm happy to. First of all, I loved all of your comments. When I was going to interject, it was really on Shira's comments, and I felt like there was so much great content there. One of the things that Shira focused on was digital technology, and our laws and new and emerging technologies and I think, Hugh, to your point, as to whether we're steady as we go, or really having to innovate and move forward?

I just think there's so much there with the way that we interact in terms of commerce, the way new and emerging technologies are developing. I think that's something we're all grappling with. I know that today at the USPTO we have Design Day, which happens once a year, where we focus on design patents. I'm speaking at that later today. One of the things that we're going to announce today, is the result of the study on the articles of manufacturing.

We've put together a summary, we're going to send that out today, and then over the coming weeks, coming months, maybe we're going to have to grapple with the way we interpret the laws, and whether that's adequately protecting and incentivizing innovation. I appreciated that comment from Shira. A couple other comments from Shira, and I'll just throw them all out there. "Love that you're getting a chief economist." I think that's one of the greatest assets that the USPTO has.

It enables us to act on data. To gather data to make sure that the decisions that we're making have the intended effects. Kudos to you on that, that would have been my first move, [chuckles] as well. I look forward to sharing our data and seeing what we can do together with that. Also, Shira mentioned the Small Claims Tribunal. As people may know, that's something the USPTO is looking into as well.

It's an initiative outside of the PTO that I led with The Sedona Conference, just figuring out ways to adjudicate some of these issues with IP for people who don't have the resources, or where the amount in controversy is low. I'm looking

forward to learning from Shira. We've already had some discussions about this in terms of how that gets implemented. I know there's a similar process in Europe that we've studied, and are trying to learn from as well. I just wanted to express my thoughts on that.

Last point, and then I'll turn it over to others. Shira mentioned CI2, the Council for Inclusive Innovation, that's a terribly important initiative that we're moving forward. It's one that is within the USPTO, but it is chaired by the Secretary of Commerce. I'm the Vice Chair and I look forward to working with Shira on that. There are so many aspects to that, and so much progress that's been made already in terms of big thinking that the council is incredible. You can go to the CI2 website, and look at all the incredible talent that we brought together to try and solve these issues on inclusive innovation. I think you're going to see a lot of movement [crosstalk] when it comes to that, and I'm really excited about that.

HUGH C. HANSEN: Wow. Why are you now where you are Kathi?

KATHI VIDAL: That a good question. Are you doubting it? [laughs]

HUGH C. HANSEN: No. You've done all these wonderful things at home, so what brought you at this moment? It's a very important position to say the least, but why?

KATHI VIDAL: It's a really good question here. I was obviously joking, but it's a really good question. I was approached about a year and a half ago by a couple people, and they just asked, "Is this a position that you've always aspired to have? Would you be interested in doing it?" My first comment was, it wasn't one that I had aspired to have because I'm always happy with what I'm doing and I stay laser focused on my objectives.

I don't always think about what do I want to do next for me, I think about how can I serve people in my current role. I hadn't thought about it before then. When they did ask me I put some hard thought into it. I thought about where we are right now in terms of our IP system, and the fact that there's just so many challenges, which, to me means there's so many opportunities, in part, because of just the globalization of all the issues in terms of trade, in terms of some of the abuses that we've seen by various entrants.

I thought about that, I thought about all the work that I've done over the decades on inclusion, and knowing that you need to bring everybody to the table to solve the big issues. Once I started thinking about all of that, and new and emerging technologies. I was designing AI in the '90s. Interestingly, I was speaking to someone the other day and they said, "Don't you rethink sometimes? If you had kept on that AI track, [chuckles] you might be in a very different place, now that it's the fad."

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I love technology. I believe strongly that we need to keep inventing in technology, solving issues with technology, lifting everybody with technology, and the only way to do that, is to have an effective system. Then, Hugh, I also thought about, every director brings their own thoughts, what they value, what they embody to this position, and I thought, in this position I would want to-- You make sure the lane was wide.

That it wasn't just about protecting innovation, it was about doing what we can, engaging at every level. Engaging with the school systems, engaging with HBCUs, engaging with communities to really incentivize innovation from day one, and draw more innovation out of the country. Then, in terms of the protecting of the innovation, I just thought it was just an exciting time to work across the agency with Shira, with other countries, to figure out the best way to protect innovation that really goes back to those first principles.

I was very excited about that, to rethink it, not in terms of how do we balance what everybody wants, but how do we really think about getting more innovation and protecting more innovation. Not only like I said from the original innovators, but we need to disseminate that in innovation. We need to protect it and collaborate with others, and figure out ways to do that, so that we can solve world problems and create more jobs.

That gets to the impact part of it. Once I started thinking about, what would I do if I were in that position? It just seemed like, of course, I want that position, of course, that's something that I would do. I will say, Hugh, that the one thing that I made clear the entire time through this process was, I love and appreciate everybody who reached out along the way, as they found out about this to say that they were happy to support me.

My thought was, I didn't want to lobby, I didn't want to go forward with certain entity's support because I serve the country now. I just want to make sure that I'm always thinking about what's best for the country. As I started thinking about that, I thought of no better place than I'd rather be right now.

HUGH C. HANSEN: Kathi, how can I vote for you?

HUGH C. HANSEN: Really. Wow. Are you going to run for office at some point?

KATHI VIDAL: As I said, I don't look beyond where I am right now.

HUGH C. HANSEN: Kathi, I want you to put aside your normal answers to these questions. Have you ever thought about running for office?

KATHI VIDAL: Just like I had never thought about being in this position, I've never thought about running for office. Anything out in the future, any platform where I can advance these objectives, I would take on that challenge. Like I said, right now it's-- These are not my canned answers, this is my ethos.

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HUGH C. HANSEN: No, that's why they're not canned, that's why I'm going to vote for you. Panel, any ideas you want to discuss? This is the time for any discussion of anything at all in IP, and people want to hear from your ideas, or we can go straight to the audience and they can ask you questions and stuff.

KATHI VIDAL: I would say, Hugh, I'd love to hear from the audience. Although, of course, I'd love to hear from the panelists as well, but I think we're here to answer questions and to provide transparency, so if everybody else is game, I'm good with going to the audience.

SHIRA PERLMUTTER : I agree with Kathi, that would be great. [silence] The one thing I was saying is the major organization that is not here this morning, that is often here is WIPO, so just to say, we're all working very closely with them as well. Tony already mentioned WTO's relationship, and so, there's also a lot happening in fostering a global conversation about all of these issues, including the US corporate office and USPTO, both just participated in the closing session of the whole series of round tables on IP education in the schools this week. That's very important work that that organization is doing as well.

KATHI VIDAL: I'll just add that on the WIPO, they're going to be in the US this week, and going, I guess next week as well for INTA and for World IP Day. I know, Shira and I are very much looking forward to that.

HUGH C. HANSEN: In the chat, we have a couple questions. You know how to look at the chat, right, all of you? Any comment on *New York Times* editorial page? What is this about? Does anyone know?

KATHI VIDAL: I cannot see the comment, can you read that one, please, Hugh?

HUGH C. HANSEN: It's just "any comment on *The New York Times* editorial? Any part you agree or disagree?" What *New York Times* editorial are we talking about? Does anyone know? Shira, you know?

KATHI VIDAL: I'm happy to address that, I think it was-

HUGH C. HANSEN: No, Kathi. I'm sorry, no.

SHIRA PERLMUTTER : No, Kathi should address it, it's a patent editorial.

HUGH C. HANSEN: Oh, go ahead, Kathi.

KATHI VIDAL: Yes. A, I know what it's about, and I can explain it, and B, I can respond to it, but, of course, everybody else can respond to it.

HUGH C. HANSEN: No, go ahead.

KATHI VIDAL: Yes, so the editorial was directed to whether the IP system is working when it comes to drug patents, or whether it's being abused. There were different thoughts expressed in that editorial, but that was a genesis of it. There were some suggestions made in the editorial about what we could do as the USPTO to shore up the system, to make sure that it's working, to advance

innovation, but not stepping beyond that in raising drug prices, and not allowing the drugs to get into the hand of people who need them.

I would say, in response to the question, A, I very much appreciate all the dialogue on this. I know that we had a conference in GW, it was the USPTO GW, and others were involved in that recently. I think the FDA was involved, where we brought some of the best minds in the country together to talk about these issues, to talk about the data. There is a lot of different sources of data, and this is one area where it's hard to parse the data, because there is no real authoritative source of data.

The article addressed some of that. I would say, overall, number one, I think all of this dialogue is important. As to whether the USPTO can do better, absolutely, that is the case. There is a letter right now from the FDA, sent over to the USPTO in response to an executive order on this very topic about how the USPTO can collaborate more with the FDA, how we can make sure that we're issuing strong patents?

How we can, perhaps, curb some of the abuses that people have identified or that they perceive. I'm right now, actually-- I spend a few hours in the middle of the night, trying to work on a response to that. We've got a great draft, I'm looking forward to responding to that, and I'm sure that will be out in the public in terms of some of the things we're thinking here at the USPTO.

I thought some of the ideas in the editorial had merit. I will say just overall, whether you're in *The New York Times*, whether you've just got a great idea and you want to express it more privately, I want to hear the good ideas. I thought a lot of those were good. I think it's just part of a long continuing dialogue. I think this issue should be address sooner, rather than later.

I was speaking at the White House yesterday, with the crew there on this very issue, and I'm looking forward to responding, to sharing some of the thoughts. I'll just tell you that, I do think that the FDA and the USPTO can have a greater collaboration, we can do more training of examiners in terms of what is something that people skilled in the art would consider, non-obvious, and what would they consider obvious?

I think there's a lot of learning that can happen between the USPTO and the FDA on that. I think we can collaborate more in terms of data to make sure that there are not certain representations being made at the FDA, and different representations being made at the USPTO. There's also initiatives we've already undertook in terms of making sure that our examiners have much prior art as we can get for them, so when they are making these decisions on whether to grant a patent, they have access to that kind of data, to broader base of prior art and better search tool.

That's just a little bit of a preview, you're going to see more ideas actually expressed in my response to the FDA. That's a very good question, it's a very, very important issue. As you know, the administration and the President believes very strongly that we need to make sure we get drugs into the hand of people who need them, but the administration also believe, as do I believe very strongly in actual property, and then we need to have a strong system or those drugs when exist in the first place. Thank you for asking that.

HUGH C. HANSEN: Okay. Marco, can you expect a new legislative proposal from the commission, which would provide an answer to the acute problem of piracy of live content?

MARCO GIORELLO: Yes, thanks for the question. We are definitely going to work more on piracy, or on the fight against piracy. That is pretty clear. Now, I think it's a bit to early now to say whether we're going to propose legislation, and if so, what. But it is clear that over the last couple of years there has been an increased debate mainly about piracy of live content (sport event, football matches and so on).

Now, we already have quite a lot of legislation at European level on the fight against the piracy. We have a directive on enforcement of IP rights. In a few weeks, hopefully, we will have the DSA, which is going to set the horizontal rules on fighting illegal content online. I think that what will be important to see in particular after we have the DSA adopted and in place is what else and whether anything else is needed, to fill the gap for the piracy of live content.

Definitely, this is an important topic. I must admit, it's also a topic where maybe we have not done so much at the European level over the last years, so it's definitely something which is going to come back to our agenda soon.

HUGH C. HANSEN: Okay. thank you. António, if you look in the chat, there's a question for you. "Any lessons on UPC for other IPRs? When is the first patent going to be registered under that system, or is subject of an invalidity litigation?"

ANTÓNIO CAMPINOS: Well, actually, I think that, if you exclude, of course, EU-wide copyright, which doesn't exist, rather it's a organization directive like Marco just referred to. I think that part completes the arsenal of legal tool with the unitary effect. You have the EU trademark, you have the EU design. EU trademark was born in the '90s, EU design was born in 2000, and now, after 50 years of negotiation, finally, we'll have the launch of the Unitary patent and the Unified Patent core.

I will say, probably at the beginning of next year, rather than at the end of this year, since we're still awaiting for the deposits of the instrument by Germany, and that should happen before summer. The Unitary patent could start functioning

before the end of the year. If it comes after summer, then probably the first Unitary patent will be granted somewhere early next year.

That's the best prediction we can have. We know it's going to happen, or by the end of this year, or the beginning of next year. There's no way back. I'm very happy because, actually, [chuckles] this actually, UPP, UPC and I might be looking a little bit arrogant, but he was born during the Portuguese presidency in 2007. This last proposal, the ones that we will see implemented by the end of year, or beginning of next year, the negotiation started.

Can you remember with, by then, Margot Fröhlinger that Marco must know very well, that's director of the Commission? In 2007, during the Portuguese presidency, and then we have a Portuguese president here on the side of DPO that will be called to implement it, so it's kind of ironical, but an happy irony, I would say.

HUGH C. HANSEN: Okay. All right. Question, with the rapid tech development and the US has a dominant actor, which deregulates and EU regulates, is there a need for the EUS to meet halfway? [silence] Anyone interested in that?

ANTÓNIO CAMPINOS: Can I make a general comment?

HUGH C. HANSEN: Anyone can comment.

ANTÓNIO CAMPINOS: Okay. I will definitely not answer to the editorial of *The New York Times*. I think at the end of the day, the patents are there for centuries and centuries, and the people-- Every 10 years, we have an anti-patent movement that comes around. Remember, last time it was ACTA, you will see back in the States with PIPA and SOPA. Again, it comes every 10 years, it's normal itself. I think that we need to question things.

At the end of the day, the patents as other mechanisms or legal tools, they are a vehicle to protect, to secure the investment that will make the innovation. At the end of the day, as like Kathi said, that's what matters is innovation, which is in the case of the patents in invention, on a product and the process that is successfully brought to the market. People tend to think that patent stuff is for big companies, it's not true.

Actually, when you look at the registers, there's millions of SMEs, there's independent inventors all around the world, who on a daily basis invent new stuff, and new stuff that now it's not only linked to GDP, to growth and employment, like recently published in the United States, more than 40% of the American GDP comes from IPR-intensive industry, with millions of SMEs, and the same numbers we have in Europe.

Now, we have in a bigger volume and that's sustainability. That's the United Nations sustainability goals. If we were to bridge the gap towards these goals, clearly, the patents have an important role to play. We just need to make

sure. I think that, that's how we see it here in Europe is that we have the high-quality patents, that really ringfence to rightly ringfence the novelty which is contained in a patent application.

That's what ensures that the fluidity and the beauty of the system created by, well, in America by the American Constitution, father, and mother. It's that what is important is to really only grant high-quality patents that really ringfence the novelty and inventive step, which is contained in a patent application. If we do not do this job properly, then we are, probably, in the market of damaging innovation by granting too broad monopolies and troubling the system.

At the end of the day, that's our job. I think. Kathi, that's our job to make sure that we deliver the highest quality patents that we can humanly, of course. The second is that we see it in a huge amount of data. The most important sources of inspiration for new inventions, for new creations come from the patent libraries from all the databases. We see trillions of data that we need to really exploit better. and make better access to this data in an understandable manner to lots and lots of people in our societies, who do not have access to this data.

We have this double vision, I would say, is to ensure high-quality patents are delivered by our patent examiners, and that this data that we sit on is better used and we ensure better accessibility to this data, to information, converting information to knowledge, sorry. Then, the access to the justice system like Kathi said. We need to make sure, and I read your-- Well, on the pro bono, we're very much looking into it into in Europe too.

I would like to develop this mechanism and to reach out to our patent attorneys to see if I can convince them, I would put the pile of money, I would put a pack of flowers, and we could reach out then to SMEs, and in particular to small companies and to independent inventors, when they receive a one-on-one letter of cease and desist, I think something like that. I think it's not that complicated here.

KATHI VIDAL: I cannot agree with you more, António. I love all of that. I believe in all of that. We need to meet next week, and start moving all this forward together. I very much look forward to that. I would only add one thing, and that's that, we keep thinking about these things in terms of balance, in terms of meeting halfway. My ask of everyone is to think about it in a different way, that this is not a zero-sum game, that if we parse this and are more nuanced about our approach, we can create a system that really is going to work for everyone. That would be the only thing that I would add and that I would ask on that.

[crosstalk]

HUGH C. HANSEN: António, we've had enough, okay?

SHIRA PERLMUTTER : Could I say something from a copyright perspective?

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HUGH C. HANSEN: It's partly because, personally, I don't like you, António, but it's also we've got to move on a little bit to some of the other questions. Yes, Shira?

SHIRA PERLMUTTER : I'm not sure exactly what issues the question is relating to, but on the copyright side, I would say that the EU and the US have pursued paths in general that are fairly parallel and similar, but with some differences, and there will always be some differences. The issue is to make sure that whatever we do, our systems are compatible enough that businesses can move smoothly back and forth across the Atlantic without suffering major problems. I think that the goal is, not necessarily identity, but compatibility.

HUGH C. HANSEN: Let me ask this question, before you move either side, a new thing or this thing? Do you say, "Well, what is the US doing, or what EU doing?" Should that be concerned about that and what we do in this next step? In other words, is it integrated into what we do? Do you have to have someone every once in a while? Well, okay, let's look what they're doing anything else, or is it part of the mechanism?

SHIRA PERLMUTTER : Well, we do stay in touch and communicate. We generally are in contact, and aware of what each other is doing.

MARCO GIORELLO: If I may, and I agree with Shira. It was also my reaction to the question from Jerker. I think, overall, we are meeting halfway, and I don't see huge differences between the US and EU legal systems on copyright.. There are specificities but as Shira says, not only we speak, but also we have many stakeholders which are the same and convey the same messages and positions to administrations on both sides of the Atlantic.

I think, at least, for copyright, things are not so different overall. Maybe we regulate a tiny bit more in Europe, that's possibly true, but also, because we have always these relationships between European level member states, and sometimes this triggers the need to regulate also to avoid the fragmentation of rules in Europe, in the single market. Overall, the systems are quite comparable, and I would like to say, consistent, I hope.

SHIRA PERLMUTTER : I would add that we do share many of the same stakeholders, but also consumer groups and academics that really operate at international levels these days as well.

KATHI VIDAL: Hugh, can I make a brief comment, or have you had enough of me as well? [chuckles]

HUGH C. HANSEN: Oh, no, it's not enough personally. António, it is personal.

KATHI VIDAL: [laughs]

HUGH C. HANSEN: Generally speaking, we may actually have some non-patent things going on. Yes, go ahead.

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KATHI VIDAL: Yes, I'll just be very brief. I will say that in everything that I will do and have done, I do look at what other countries are doing for two reasons. One, it's important to learn from what other countries are doing. If they're having a better impact on innovation, then we need to learn from that, and two, we need to work together. We need to make sure that the infrastructure works together.

HUGH C. HANSEN: You know what you could do Kathi? What is the best forum on the face of the earth for interaction between different foreign countries in terms of IP? Just let's figure what that could be. Maybe they could use some financial assistance. It could be cash, or it could be something else, but let's think strategically on some of these issues. I just want to make sure if people put something in there.

Generally speaking, I don't know if we probably get. Do geopolitical developments have more impact on IP today than they did in the past? What is likely to happen? Anyone want to address that? Geopolitical, that gets broad and could be vague, but anyone want to address that? [silence] To what extent, let me ask you this, forget about the geo, just the political, to what extent do you have to worry about who's in the White House, or who's here who's the head of the WIPO, or who's this? To what extent are these things sometimes personal? Personal preferences of people around the world that you have to take into account at all or not? Probably, no, right? [silence] Okay.

KATHI VIDAL: I was giving other people certainly a chance to speak, because I want to make sure that we share the love here. In terms of political developments, I do think that there is-- I think António mentioned that, there's certainly people who believe that we need to do whatever we can to foster innovation and to protect our big companies, and to make sure that they're successful, because they're a critical part of our economy.

There's also the need to make sure that we're incentivizing innovation from small inventors, and that we're promoting them as well, and that we're promoting that diversely, and we're reaching out into underdeveloped communities and underrepresented individuals, and creating innovation. I think, if you look at the political landscape right now in the US, you might find that some people are a little bit more concerned with one versus the other, or at least want to make sure that they're taken care of.

I think when you talk about the political nature, that is, to me, the only really dynamic part of it. Everybody that I've spoken to, whether they are asking questions about the bigger companies, or whether they're asking questions about the independent inventors, they want the system to work. They want it to work, they want to make sure that we're incentivizing innovation.

HUGH C. HANSEN: What about the academic community? When I started, nobody was interested in IP. The only people who were interested in IP is like copyright were all creative wannabes. I wanted to be an author, the other people were singers. That's how they got into IP and it's a very small-- Then, now academics are getting into it from the tech side. They're techies and they see IP is getting in a way of maybe technological development.

Do you see any of that at all around the world, or what you're doing, you have to think about or the academic Amicus Brief? My guess is, right now, I'm just looking from the outside, academics have not had a lot of influence recently in IP. What do you think? Anybody.

SHIRA PERLMUTTER : Well, it's been an interesting development that over probably the last 20 years, academics have gotten very involved as a voice in the debates, and have wanted to influence them, and I think they do provoke a lot of questioning. Even if ultimately decisions may not be made on a purely academic basis, but I think the issues are often brought up and highlighted, and explained by academic voices.

In terms of the question about politics, one of the differences, going back to your question to me, Hugh, between working at the Copyright Office and the Patent Office is that we are not political in the sense of US politics, because we're not part of the executive branch, and we answer to all 500 and some members of Congress on both sides of the aisle.

One of the beauties of intellectual property, at least in the US, has been that it is not a particularly partisan issue in general, which is one of the reasons that we enjoy it. [chuckles] Geopolitical developments, things like, things having to do with war and epidemics, I think have always influenced the international debates and that continues to be the case.

HUGH C. HANSEN: António, I'm getting back to you because you wanted to say things in the past.

ANTÓNIO CAMPINOS: [chuckles] What's happening actually is that the result of an economy which is based on intangible assets now. The vast majority of the GDP which is created worldwide is based on intangible assets. 20 years back it was on tangible assets, now it's intangible, and most of it comes from knowledge, and the patent is a way to monetize this knowledge. Is a way also to incentivize new knowledge.

It's clear now today, every time the EU embarks on negotiation for a trade agreement, or the US embark on negotiating a trade agreement, we have the famous at EU level, the Chapter 7 which relates to IP, and the Americans do the same. An important chapter of negotiations on trade agreements is about IP. IP, it's a way to basically monetize the knowledge economy, the intangible assets which are predominantly the basis of the worldwide GDP. That's what happened.

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KATHI VIDAL: [crosstalk] Oh, Tony, did you want to speak?

ANTÓNIO CAMPINOS: No, I'm good. I'm good. I tried to be short.

KATHI VIDAL: [laughs] I just want to note real briefly on our academic institutions, I think there's a lot we can learn from them. I think that they do highly value IP. If you look at our academic institutions, they're really good at innovation harvesting, they're really good at tech transfer, of taking the ideas they develop within the academic institutions and bringing them to impact.

At least, within the US, they play a critical role in offering these pro bono services that we've been talking about. I see only positives in collaborating with them more, and learning from them.

HUGH C. HANSEN: Let me just look at the-

ANTONY TAUBMAN: I might just quickly chip in two quick points. One on the academic community. We've seen a transformation in TRIPS, 25 years ago it was, you're on one side or the other. It was very partisan, the academic debate. I think what academics have done, it's useful is to unearth a lot of the good policy principles that are embedded in TRIPS, which is about exactly the balance we've been talking about.

Innovation, yes, sure, but also dissemination of the fruits of innovation for public welfare. I think TRIPS was assumed to be like a version of industry capture, and just there for the wealthy. We've got a much more nuanced view of it now, and I think the evidence-based approach that some academics are pursuing, at least, is very helpful in connecting the dots.

The other point I'd make is that, and just building on what António said, yes, it's one way of monetizing value, but also it's a way of diffusing technology, and reaching positive-sum deals on the sharing of technology. In other words, it's a tradable good, IP, and that's something we're working on ourselves because, of course, that's the World Trade Organization dealing with IP, how to structure positive-sum transactions over IP.

That's what it should be all about, and the fact that now IP can be traded, divorced from physical goods, physical media, that positive aspect has come into much clearer perspective, which was not the case 25 years ago.

HUGH C. HANSEN: Did you hear that noise? That was actually saying this wonderful conversation, an individual and group, and Kathi, I just want to know where to send my contribution, that's all, has been fantastic. Thank you very much. I very much appreciate it.