

Bipartisan Group Aims To Halt 'Downward' Slide Of IP System

By [Britain Eakin](#) · [Listen to article](#)

Law360 (September 30, 2022, 7:41 PM EDT) -- Former [U.S. Patent and Trademark Office](#) directors, Federal Circuit judges and a [U.S. Chamber of Commerce](#) official kicked off a new bipartisan coalition this week that aims to counter misinformation they say has led to the steady erosion of the U.S. intellectual property system.

Andrei Iancu, who served as USPTO director during the Trump administration, has joined forces with David Kappos, the agency's director during the Obama era, and Frank W. Cullen Jr., the former vice president of the Chamber of Commerce's Global Innovation Policy Center, to form the Council for Innovation Promotion. Joining them are former Chief Federal Circuit Judge Paul Michel, who was appointed by President Ronald Reagan, and recently retired Federal Circuit Judge Kathleen M. O'Malley, who was elevated to the appeals court by President Barack Obama.

The bipartisan coalition plans to employ a variety of tactics aimed at educating lawmakers and their staff about the connection between a strong intellectual property system and the innovation economy. The coalition will engage in advertising, lobbying and arranging congressional delegations for lawmakers to visit innovative companies in their districts, Kappos told Law360 during an official launch party Wednesday at Charlie Palmer Steak in Washington, D.C.

The Council for Innovation Promotion, or C4IP for short, will also be developing congressional scorecards that rank lawmakers on their voting records and advocacy positions relative to intellectual property, and hopes to eventually form a super PAC to engage more directly in the political process, according to Kappos, who will serve as a board chair.

All the coalition's members said Wednesday they are united in their belief that their mission is a dire one.

"For me, it's urgent because we've observed that our country's IP system is in a slide," Kappos said in an interview. "And the problem with being in a slide in a downward direction is you never know when you reach a point of no return. And we need to reverse these things before that happens."

Iancu, who will also serve as a board chair, told Law360 it is critical for C4IP to educate policymakers, elected officials and the U.S. electorate about the importance of intellectual property. Particularly, he said, not only does it fuel economic growth and tamp down on monopolistic tendencies, but also a strong innovation economy can't happen without robust intellectual property rights.

"It is of immediate urgency that the United States attend to this issue before it's too late, because if other countries achieve technological superiority in things like artificial intelligence, quantum computing, advanced materials, etc., then it will be too late," Iancu said.

Part of C4IP's mission, according to Cullen, who will serve as the coalition's executive director, will be to "pull the curtain back" for lawmakers on inventors and creatives who are struggling to make a living, create something new or employ people. Cullen, who spent 18 years working on Capitol Hill, told Law360 in an interview that what he saw resonate most with lawmakers during that time was hearing directly from constituents about how policies impact them in the real world.

"That's no different in the IP ecosystem. There are a ton of small individual creators or businesses ... and many of these folks are struggling because they're either threatened with having their biggest asset — their intellectual property — stolen, or they're threatened because they're restricted in the ways they can protect it so that they can eventually bring it to market, but also see a return on the investment," Cullen said.

Chief among C4IP's goals is serving as a loud counter to anti-intellectual property lobbying that Michel told Law360 in an interview has been going on for more than a decade and has "completely misinformed and blinded policymakers." Michel, who will serve as a board

member, said lawmakers need help understanding that without strong intellectual property rights, incentives to invest in innovation precipitously decline and put the U.S. at a competitive disadvantage in the global marketplace.

Michel said he left the federal bench in 2010 so he could focus on educating policymakers about how innovation actually works in the real world after he said it became clear to him "that the courts had damaged the patent system." He said C4IP seems to have potential that other existing organizations don't because they are hampered in various ways.

"This organization is not. It's lean, it's very focused, it has really strong visionary leadership," Michel said. "I see a chance now that I haven't seen before in the 12 years I've been at this 'educate-the-policymakers' effort. So I'm very excited about it. I think it has huge potential."

Meanwhile, O'Malley, who joined [Irell & Manella LLP](#) as of counsel and works alongside lancu, who returned to private practice at the firm as partner when he left the USPTO, told Law360 the coalition shares a common mindset. O'Malley had [said last year](#) one reason she wanted to leave the federal bench behind was "to have a voice" and speak freely about problems with the U.S. patent system.

O'Malley said in an interview Wednesday that her role as a board member with C4IP will be different from some of the other speaking she's done on the patent system, since the group will decide as a team how to best craft its message. Its like-mindedness makes the group well-suited to work together on the coalition, she said.

"We all really think alike on all of these things, which is why I joined the organization," she said, adding that's why she also linked up with lancu at Irell. "Despite differences in our theoretical politics, we all believe the exact same thing when it comes to IP."

The launch of the coalition drew bipartisan support from Sen. Chris Coons, D-Del., and Sen. Thom Tillis, R-N.C., who both attended Wednesday's launch party, and praised the mission of C4IP.

Coons told Law360 "everything" excites him about the coalition's potential.

"We have, for a long time, needed a more effective voice in Washington advocating for the

value of invention and innovation, and connecting that to a strong IP system," Coons said in an interview. "There's been a series of loud voices for years now that have misrepresented America's IP system and the importance of patents and of patent protection to invention and innovation, and so I think it's long past time we had an organized advocacy organization specifically focusing on this."

--Editing by Lakshna Mehta.