

IP Luminaries Launch Group To Promote, Defend Innovation

September 22, 2022

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Law360 (September 22, 2022, 1:29 AM EDT) -- Two former directors of the [U.S. Patent and Trademark Office](#) and two former Federal Circuit judges are leading a new group launched Thursday that aims to "change the narrative" around intellectual property, by informing policymakers and the public about how it drives innovation.

The board of directors of the Council for Innovation Promotion includes Andrei Iancu of [Irell & Manella LLP](#) and David Kappos of [Cravath Swaine & Moore LLP](#), who respectively led the USPTO under Presidents Donald Trump and Barack Obama. They are joined by retired Federal Circuit Judges Kathleen O'Malley, also of Irell & Manella, and Paul Michel.

In an interview with Law360 on Wednesday, Iancu and Kappos said that in discussions about American innovation, the key role played by intellectual property is too often overlooked, and the group aims to bring it to the forefront.

"We've perceived a gap in the public discourse between innovation policy and intellectual property policy," Iancu said. "Almost everybody agrees that more innovation is good. It's good for the United States. It's good for the world. It's good for the human condition."

"Not everybody understands, however, that in order to achieve an increased level of innovation in a free market economy like the United States, you need a robust intellectual property ecosystem," he said.

Kappos said the group aims to communicate with lawmakers, government officials and the general public in a way that "enables them to understand that our intellectual property system is a key driver of innovation, and if we want to have a strong innovation economy, we must have a strong intellectual property system."

The coalition's goal is to "change the narrative about the importance of intellectual property in driving innovation," he added.

The executive director of the new group is Frank Cullen, who previously spent nearly 10 years as vice president of the Global Innovation Policy Center at the [U.S. Chamber of Commerce](#). He said in an interview that the coalition's membership is not being disclosed, but that it includes representatives from many industry sectors.

Cullen noted that Kappos and O'Malley were appointed by Democratic presidents and Iancu and Michel were appointed by Republican presidents, and said the bipartisan nature of the organization's board will be "very impactful in terms of our ability to show that we're credible, and we're serious."

The coalition will initially focus on educating lawmakers and the public about IP at a high level, rather than advocating for specific legislation, especially given the short amount of time left in the current Congress, said Cullen, who is a registered federal lobbyist.

But going forward, "we will be in communication with our members to determine on a case-by-case basis if there are specific legislative proposals or policies that we need to engage the administration on. I think the likelihood is that of course there will be," he said.

The coalition plans to work with members of Congress to introduce them to people from their districts who have brought important inventions to the market, as well as bringing delegations of lawmakers and their staff to local businesses to hear their stories. Kappos said both he and Iancu had success with that strategy when they were in government.

To reach the general public, the coalition is planning advertising campaigns and other written and video messages to convey the importance of IP. Iancu said the group is ready for the work of helping regular people to grasp IP issues, noting how difficult it can be for him to explain to friends, family and legal colleagues what his job is all about.

"That actually is one of the main goals for this new organization, which is to simplify the conversation, and put it in terms that people can understand," he said.

Kappos and Iancu said the threats to the IP system can be seen in recent developments

like the [World Trade Organization's June agreement](#) allowing a waiver of some patents covering COVID-19 vaccines, a move supported by the Biden administration but [opposed](#) by the two former USPTO directors.

"It was unfortunate that the administration and many members of Congress went along with blaming the intellectual property system, in a case when actually the intellectual property system should have been credited" as the reason why COVID vaccines were developed and distributed "so incredibly quickly," Kappos said.

lancu said he's similarly concerned about "negative rhetoric" and "meaningless pejoratives" about IP. Referring to patent plaintiffs as "trolls," or describing the patents secured by drugmakers on their products as "evergreening," has the effect of foreclosing discussion about how policies can be improved, he said.

"That is, in my mind, a significant threat to the system, because if you cannot have an in-depth conversation about the substance, then you're not going to arrive at good policy results," lancu said.

Kappos said that the group intends to support members of Congress and candidates for office who have "strong intellectual property records," and plans to create an index of members of Congress tracking their votes on issues important to the group.

"We think that can be helpful to us and to the public in terms of transparency regarding the positions that are being taken relative to intellectual property," he said.

The group recognizes that changing the national dialogue surrounding intellectual property and engaging the public on the issue will not be easy, but the members are prepared to take on the challenge, lancu said.

"We're very realistic that this is not something that's going to happen overnight. It will take time and persistence, and we are here for the long term," he said.

The Council for Innovation Promotion will officially launch with a Sept. 28 event in Washington, D.C., where speakers will include current USPTO Director Kathi Vidal and Sens. Chris Coons, D-Dela., and Thom Tillis, R-N.C., members of the Senate Judiciary Committee's IP subcommittee.

