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WIPO Looks At Mandate On IP And Climate Change, Access For Reading Impaired

By Kaitlin Mara on 14 July 2009 @ 1:42 pm

A conference aimed at sketching out ideas for the World Intellectual Property Organization's involvement in issues of global public policy kicked off Monday with explorations on the link between intellectual property and environmental technology and a separate event devoted to access to reading material for the visually impaired.

"Technological innovation as well as transfer and widespread implementation of climate-friendly technology will be central to the effort" to fight environmental devastation, Francis Gurry, director general of WIPO, told the conference.

The secretary general of the UN World Meteorological Organization, Michel Jarraud, highlighted the global, borderless nature of climate change, and the need for cooperation. "No country can do it alone," he said. The WMO is contributing by encouraging sharing of weather data, but faces some tensions about sharing among member states with competition and political concerns.

"We must make sure that the very poorest in our societies are able to benefit from new ideas and technology. We also need an IP framework that meets the needs of the rural poor as well as the urban elite and which gives marginalised groups - like the homeless - a stake in new ideas and technology," said David Lammy, the UK's Minister of Intellectual Property. The text of his speech [can be found here](#)^[1] [pdf].

The WIPO international conference on IP and public policy issues is taking place on 13-14 June. The meeting, which grew out of proposals at the WIPO Standing Committee on the Law of Patents, is intended to begin exploration of several new issues Gurry and member states have emphasised must be on WIPO's future agenda: environment, climate change, health, and food security.

A conference on access to reading material for the visually impaired took place on 13 July immediately preceding the public policy conference. The topic of exceptions and limitations to intellectual property rights had been proposed as an addition to the global challenges agenda, but concerns from member states that it would distract from the focus on the patent system and technology development and diffusion resulted in its being placed on a separate agenda.

Christopher Friend, strategic objective leader on accessibility at the World Blind Union (WBU), called for aid for the 300 million visually impaired people "incarcerated in a world without books" because only 5 percent of literature is available in an accessible format. "How long," he said, "before the world realises that to deny access to knowledge is to deny people access to a basic human right?"

Copyright restrictions create problems because it prevents organisations – usually small - working on accessible formats from sharing resources, said Dipendra Manocha, director of the Digital Accessible Information System (DAISY) Consortium office in New Delhi.

For example, said Friend, the popular novel Harry Potter and the Chamber of Secrets had 5 different English-language master copies produced in Braille and 8 produced in DAISY Audio because copyright prevented the sharing of those master files with other countries. The extra cost meant other books were not made accessible.

“In the last years we’ve extended rights to rights holders, including into the digital sphere,” said Ambassador Mario Matus of the Chilean mission to the WTO. “But this hasn’t happened in the same way for exceptions... the time has come for a treaty on visual impairment.”

Herman Spruijt, the president of the International Publishers Association (IPA) in Geneva said his organisation was “willing to contribute our fair share” to the effort to expand access but said that solutions must be market driven rather than involve copyright exceptions.

IP and the Environment

“We know that IP is an incentive, no one denies that,” said Wanna Tanunchaiwatana, who manages the technology sub-programme at the United Nations Framework Convention on Climate Change (UNFCCC). The UNFCCC is counting down the days to a major climate change agreement slated to be finalised at the end of the year (*IPW, Environment, 18 June 2009* ^[2]). But, she added, incentives for innovators have to be balanced with a need to diffuse technology.

“This is not an issue of morality or charity, it’s a commitment issue, under the convention,” she said. Article 4.5 of the convention ^[3] [pdf] charges developed countries to “take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other parties, particularly developing country parties.” And Article 4.7 recognises that “the extent to which developing country parties will effectively implement their commitments under the convention will depend on the effective implementation by developed country parties of their commitments under the convention related to financial resources and transfer of technology.”

The current negotiating text ^[4] [pdf] for the UNFCCC dealing most directly with intellectual property is far from consensus. Four pages of text on the topic, heavily bracketed (indicated areas of disagreement) list options for perspective on intellectual property ranging from encouraging patent sharing and compulsory licensing and even patent exclusion for green technology to tax exemptions and subsidies for green technology patent owners, to calls for further empirical research to gather data on the real effect of IP on the ground.

Economists can already provide much of this data, said Daniel Johnson, a professor of economics at Colorado College in the US. Market valuation of ecological technology is the key, he said, meaning there are economic reasons to treat it differently as well as public interest reasons.

There are effects of green technology use on people other than the buyer and the seller, meaning that market prices do not adequately reflect the true value of innovation, Johnson said. Further, a lot of ecological innovation is fundamental, and open access to it is fundamental for follow-on or incremental improvements, especially as local adaptation is usually necessary. And it is highly sensitive to policy - if you slap a tax on gasoline, it incentivises invention on greener cars, he explained.

Others felt that the IP system is key to green technology innovation and diffusion. Carl Horton, chief intellectual property counsel at General Electric, cheered the IP system and said it was necessary to help people “understand and defend the IP system” and to aid technology diffusion by making the patent process move more efficiently, such as by giving special treatment to those with green technology.

And Monish Suvarna, president of Intellectual Ventures India, said that the key to increasing respect for intellectual property rights is in increasing developing country ownership over intellectual property.

“There isn’t enough IP in developing countries so they don’t see a reason to create an enforcement regime. So we have to help them make IP,” he said. “If there were enough green patents in developing countries, they’d also seek enforcement.”

The fact that there was an IP case in an Indian court recently is a “huge step forward,” he said, referring to a case in which Novartis lost a patent right on its cancer drug Glivec. “Not all cases, even in developed countries, go the right way,” he added, saying “it will take a lot of time for countries such as India and China to start paying attention to IP,” but “if you’re patient enough and build the right kind of environment” it eventually works.

New Developed-Nation Industry Initiative

Meanwhile, at a press briefing alongside the WIPO event, an initiative was announced by representatives of developed-country industry invested in intellectual property rights related to the public policy issues under discussion like climate change technology. The initiative, the Coalition for Innovation, Employment and Development (CIED), replaced a previous but similar initiative called IDEA, and was first announced in Washington, DC. The extensive list of company members is [available here](#) ^[5].

Representatives from the US Chamber of Commerce, General Electric and Sanofi-Aventis argued that IP rights promote innovation that could address global issues. Mark Esper, executive vice president of the Chamber’s Global Intellectual Property Center, told reporters that people who want to look for exceptions and “carveouts” to IP rights

related to climate change would undermine innovation. Esper also said a “movement is afoot” to change section 3d of the Indian Patent Law, which limits patentability.

The industry representatives were challenged on the opposition to exceptions by reporters who said developing countries will seek exceptions in Copenhagen or not agree to the final text there. Thaddeus Burns of GE said it is accepted that the ability to use compulsory licences exists in the TRIPS agreement, but that their use “always makes any asset holder feel uncomfortable.” He said technology is transferred “in the real world” by selling it, often by licensing of patented technologies. He also said a focus is being made on centres of excellence in least developed countries to pull investment and markets.

As a side note, a participant observed that WIPO may still be familiarising itself with environment issues: none of the conference documents, contained in a plastic coated binder, appear to have been printed on recycled paper.

Article printed from *Global Climate Law Blog*

Countdown to Copenhagen: The debate over technology transfers and the protection of intellectual property

Posted at 9:21 AM on July 13, 2009 by Cyrus Frelinghuysen

The debate over the role of technology transfers in any future climate change treaty is set to intensify as the UN Climate Change Conference in Copenhagen approaches. On one side, there are those who believe that intellectual property (IP) rights should not stand in the way of international cooperation on climate change. For example, Secretary of Energy Stephen Chu has suggested that it may be necessary to “share all intellectual property as much as possible,” especially when it comes to certain vital technology like systems for capturing and storing carbon dioxide. A report issued this month by the Center for American Progress and the Global Climate Network warns: “Intellectual property (IP) law can also act as a barrier, and measures to encourage companies to use or relinquish IP (and in some circumstances to use the flexibility already available through the World Trade Organization’s TRIPs agreement) may be necessary.” The report recommends that “patents could be withdrawn if developers seek inappropriately high rents from their IP protection or use IP to restrict a technology’s use.”

In contrast, groups such as the Global Intellectual Property Center (GIPC) of the US Chamber of Commerce and the Coalition for Innovation, Employment and Development (IDEA), an alliance of multinational corporations, worry that the inclusion of technology transfer provisions in any climate treaty poses a serious threat to the protection of IP rights. For example, a report issued by GIPC warns that there is “a growing movement of anti-IP activists drawn from universities, foundations, non-governmental organizations (NGOs), ideologically driven interest groups, and even governments. These activities promote the idea that IP rights should not be recognized and that the protection of IP impedes progress and hurts the poor.” In an interview with the New York Times, the head of IDEA refuted the notion that IP rights are an obstacle to cooperation on climate change:

“Cooperation and property rights are not mutually exclusive. Indeed, property rights are the solution, not the problem. If property rights become secondary, then we lose the incentive for innovators to pursue their ideas, and the world loses the opportunity to learn and build upon their innovation. Not only does this dampen technological advancements, it also would likely mean a major reduction in private sector investment in research and development funding for new technologies.”

Under Article 4.5 of the U.N. Framework Convention on Climate Change (UNFCCC), as affirmed by Article 10 of the Kyoto Protocol, developed countries have committed to taking “all practicable steps to promote facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties.” On May 19, 2009 the UNFCCC released its draft negotiating text that includes various options for “Measures to address intellectual property rights.” One option provides: “Specific measures {shall} {should} be established to remove barriers to development

and transfer of technologies from developed to developing Parties arising from intellectual property rights (IPR) protection, including: (a) Compulsory licensing for specific patented technologies; (b) Pooling and sharing publicly funded technologies and making the technologies available in the public domain at an affordable price; (c) Taking into account the example set by decisions in other relevant international forums relating to IPRs, such as the Doha Declaration on the TRIPs Agreement and Public Health.” The negotiating text includes another proposal that “LDCs [least developed countries] be exempted from patent protection of climate-related technologies for adaptation and mitigation, as required for capacity-building and development needs.”

In response, the US House of Representatives recently passed legislation that opposes any global climate change treaty that weakens IP rights. On June 10, 2009, the House passed H.R. 2410, the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011. Section 1120A is entitled “Statement of Policy Regarding Climate Change” and stipulates that, “with respect to the United Nations Framework Convention on Climate Change, the President, the Secretary of State and the Permanent Representative of the United States to the United Nations should prevent any weakening of, and ensure robust compliance with and enforcement of, existing international legal requirements as of the date of the enactment of this Act for the protection of intellectual property rights related to energy or environmental technology, including wind, solar, biomass, geothermal, hydro, landfill gas, natural gas, marine, trash combustion, fuel cell, hydrogen, micro-turbine, nuclear, clean coal, electric battery, alternative fuel, alternative refueling infrastructure, advanced vehicle, electric grid, or energy-efficiency-related technologies.”

It remains to be seen what position the Obama Administration will take on the issue of technology transfers when climate treaty negotiations begin in Copenhagen in December. However, during the recent G8 Summit, President Obama co-chaired a meeting of the Major Economies Forum on Energy and Climate, which includes non-G8 countries like China, India, and Brazil. The discussions resulted in the Declaration of the Leaders of the Major Economies Forum on Energy and Climate. Leaders agreed to establish a “Global Partnership to drive transformational low-carbon, climate-friendly technologies” and to report in November on “actions plans and roadmaps and to make recommendations for further progress.” They will also “consider ideas for appropriate approaches and arrangements to promote technology development, deployment, and transfer.”

Article printed from *The Financial Times*

Patent spat looms at climate change meeting

By Frances Williams in Geneva

Published: July 12 2009 16:22

Ways of averting a damaging clash over patents at a climate change meeting later this year, pitting the US against the big emerging economies, will top the agenda at a conference organised by the UN's intellectual property agency that opens on Monday.

At the G8 summit in Italy last week, China, backed by India and Brazil, repeated its call for easier access to patented clean energy technologies in return for signing on to a new global climate change accord in Copenhagen in December.

China, in a submission last year to the UN body handling negotiations on the accord, called for new rules allowing confiscation of patents through compulsory licensing of "environmentally sound technologies".

India and Brazil say they want explicit recognition that compulsory licensing can be used in the interests of mitigating climate change under World Trade Organisation intellectual property rules, drawing parallels with a 2001 WTO declaration relating to intellectual property and public health.

Alarmed US industry groups, with strong support in the Congress, are pressing the Obama administration to resist any weakening of patent protection in the Copenhagen talks, raising fears among environmental groups that wrangling could scuttle an accord aimed at limiting global greenhouse gas emissions.

In May, the US Chamber of Commerce launched a Coalition for Innovation, Employment and Development specifically to lobby for maintaining strong IP rights in the climate change and other international negotiations. The coalition argues that patents, copyright and trademarks are essential to stimulate innovation.

However, more neutral experts, including the World Intellectual Property Organisation, organiser of the two-day conference on IP and public policy, say more creative use of the existing system could enable a wider spread of clean technologies without recourse to confiscation of patents.

David Lammy, UK minister for intellectual property, who will speak at the conference on Monday, says that in addition to more voluntary licensing of technologies such as solar power and fuel cells, poorer countries need help to develop their own knowledge base.

Incentives he will mention include cross-national research collaboration, patent pooling and "licences of right", which cut patent fees if rights holders agree to license their invention to anyone requesting it.

With China, the UK is developing model agreements for collaboration on research and development to ensure the benefits of innovation are both shared and protected. Hillary Clinton, US secretary of state, said earlier this year she hoped to explore collaborations between universities in the US and China “where we can jointly develop intellectual property, where we can jointly come up with new technologies”.

Article printed from *ISN Security Watch*

Climate Change, Patent Pending

By Peter Buxbaum in Washington, DC

25 Jun 2009

A US-China showdown in Copenhagen could scuttle an agreement unless they can find middle ground on green technology patents, Peter A Buxbaum writes for ISN Security Watch.

On 12 June, the US House of Representatives overwhelmingly passed a foreign relations funding bill which included an instruction to the US envoy to the UN-sponsored climate change treaty negotiations. The US delegation was not to accede to any proposal, the House declared, which would compromise the intellectual property rights US companies have over environmentally-friendly technologies.

Viewed in a vacuum, the House action is of little inherent significance. After all, the executive branch is in charge of US foreign policy, and it is the Senate, not the House which must approve treaties.

But the House can make some mischief. Congressmen can make enough noise to stir up public, as well as senatorial, wrath. It can also refuse to fund activities it disapproves of.

The House move was a pre-emptive strike against an expected proposal by China at negotiations later this year in Copenhagen over the UN Framework Convention on Climate Change (UNFCCC) for a regime of mandatory licensing of green technologies. Such a provision would weaken the control companies enjoy under current US and international law over patented inventions.

Although the US will be not asking China to agree to guarantee carbon emissions reductions as part of a Copenhagen treaty, it does want to press the Chinese to implement. The Kyoto protocols did not require reductions of developing economies. China is demanding, in return, access to the green technologies where the US has an edge.

The issue of intellectual property rights will pit the US against China. The two countries together are responsible for 40 percent of global carbon emissions. The successful completion of a climate change accord may hang in the balance.

China's position is allowing US politicians to make political hay. Representative Mark Kirk, a Republican from Illinois and co-chair of the congressional US-China Working Group, recently returned from a trip to China and described climate change policy as the "one point of discord."

At a gathering hosted by the Center for Strategic and International Studies in Washington last week, Kirk described a mandatory licensing provision as "authorization for the theft

of US intellectual property (IP).” Kirk and his colleague, Representative Rick Larsen, a Democrat from Washington state, sponsored the IP amendment to the foreign relations authorization bill.

The US business community, not surprisingly, is behind the Kirk/Larsen measure. Just last month, the US Chamber of Commerce launched a lobbying group called the Innovation, Development & Employment Alliance (IDEA). “IDEA’s immediate priority is to urge Congress and the Obama administration to maintain strong IP protection for innovators as the US engages in international talks related to UNFCCC,” says the organization’s website.

The Kirk/Larsen legislation “will play a vital role in efforts to protect intellectual property abroad,” Mark Esper, executive vice president of the US Chamber’s Global Intellectual Property Center told ISN Security Watch. “Through an emphasis on protecting IP rights in climate change negotiations, America’s foreign policy efforts will focus on protecting jobs and strengthening our economy.”

Patent precedents

While US politicians and its business community attempt to portray mandatory licensing as a form of legalized theft, such a scheme has, in fact, ample, legal and historical precedent.

“Compulsory licensing of patents is a means for getting technology into use where the patentee is sitting on his rights or is asking too much for it,” said David Weild, a patent attorney with the law firm of Edwards, Angell, Palmer & Dodge in New York. “In international law, it goes back to 1883, with the Paris Convention for the Protection of Industrial Property, and it has been echoed in national patent legislation in both common law and civil code countries,” he told ISN Security Watch.

The Canadian patent office for example, is authorized to impose a license on a patent holder who demands an exorbitant sum. In the US, federal courts have required patentees to accept licenses in lieu of enjoining the use of an invention by a patent infringer.

But at least one mandatory licensing scheme has proved a sticking point in international trade regulation, noted David Fidler, a professor of law at the University of Indiana. Article 31 of the World Trade Organization’s Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement provides for mandatory licensing under certain circumstances. Developing countries have been trying to secure pharmaceutical licenses under its provisions.

“There has been an ongoing fight about what Article 31 means,” Fidler told ISN Security Watch. “There is still no meeting of the minds on international intellectual property rights.”

Some countries attempt to circumvent Article 31 by inserting stronger patent protections in bilateral and regional trade agreements.

“We see already that some in the US are raising red flags” over climate change, Fidler added. “The battle lines are being drawn and it will be difficult reaching an end game successfully since in other contexts it has proved illusive.”

But there may be some middle ground that can be staked out, and the US government may be moving in that direction.

The US-China relationship “is perhaps the most critical and the most delicate” of all the bilateral relationships relating to climate change, said Eileen Claussen, president of the Pew Center on Global Climate Change, a Washington-based research organization. “The Chinese do not want their country cast in a spotlight.”

Claussen discourages the US from confronting the Chinese on climate change. “A better approach,” she told ISN Security Watch, “is to pursue closer collaboration on clean coal technology and other energy and climate challenges.”

Secretary of State Hillary Clinton may be heeding that advice. During a trip to China earlier this year, she said that she wanted to explore collaborations between universities in the US and China “where we can jointly develop intellectual property, where we can jointly come up with new technologies. That is the level of partnership we want, where we can each benefit from the fruit of our labor and our intellectual investment.”

Clinton's approach may be consistent with a “draft” Copenhagen agreement released by a group of NGOs, including Greenpeace. “Where intellectual property rights prove to be a barrier to technology deployment, diffusion and transfer,” the document says, “a clear framework for using existing mechanisms, based on the approach of protect and share, should be developed to reduce and eliminate these barriers.”

Fidler also approves of the secretary of state's approach. “We need creative ideas and innovative mechanisms,” he said. Otherwise, he fears, climate change negotiations could get bogged down in an IP morass.

Peter Buxbaum, a Washington-based independent journalist, has been writing about defense, security, business and technology for 15 years. His work has appeared in publications such as Fortune, Forbes, Chief Executive, Information Week, Defense Technology International, Homeland Security and Computerworld. His website is www.buxbaum1.com.

Article printed from *The New York Times*

Will Energy Ideas Be Private or Public?

By Andrew C. Revkin

May 21, 2009, 10:13 am

The United States Chamber of Commerce, a leading lobby representing businesses, is expressing growing concern that moves to spread new energy technologies to developing countries could erode the intellectual property rights that have driven commercial efforts to innovate for generations. On Wednesday, that group and representatives of General Electric, Microsoft and Sunrise Solar gathered in Washington to launch the Innovation, Development & Employment Alliance, or I.D.E.A. The initiative is aimed at pressing Congress and the Obama administration to ensure that global climate-treaty talks don't weaken protections on who can profit from new technologies that provide abundant energy without abundant pollution. You can sift for hints of such issues in the latest United Nations discussion draft of a potential climate agreement.

This issue came up in a recent question-and-answer session by Energy Secretary Stephen Chu, in which he proposed that — at least on vital large-scale technologies like systems for capturing and storing carbon dioxide — intellectual property rights issues might best be dropped to foster international cooperation. That didn't go over well at the time with a top official from General Electric.

I sent some questions to the Chamber team focused on this issue and they were answered (below) by Mark Esper, executive vice president of the Global Intellectual Property Center:

Q. We live in a world where the norm of intellectual property is eroding in almost every arena, from entertainment to news to pharmaceuticals. Is the business community essentially trying to hold the line against a big tidal wave of change here?

A. I.D.E.A. will focus on protecting and promoting innovation by emphasizing the role IP plays in addressing the challenges that the world faces today. The breakthroughs needed to meet the world's challenges in health care, renewable energy, climate change and other areas will come through technology, creativity, and innovation, and strong IP laws will make these advancements possible.

I.D.E.A.'s goal is not to hold the line – we are advancing the role of IP and innovation on all fronts globally. We are proactively working to assemble a diverse group of industry, labor, and environmental interests who are not going to simply preach the values of IP, but demonstrate its critical role of IP in creating jobs, generating solutions to global challenges and revitalizing our economy.

Q. In a recent interview on Dot Earth, Steve Chu mentioned specifically that in arenas like capturing CO2 from fuel combustion, cooperation should be paramount and property rights secondary. Are there some technologies where the “public good” facet simply dominates? Not to mention that carbon capture and storage isn't

something industry will pursue at large scale without governments investing in large demonstrations etc., right?

A. Cooperation and property rights are not mutually exclusive. Indeed, property rights are the solution, not the problem. If property rights become secondary, then we lose the incentive for innovators to pursue their ideas, and the world loses the opportunity to learn and build upon their innovation. Not only does this dampen technological advancements, it also would likely mean a major reduction in private sector investment in research and development funding for new technologies. If we really want to solve these global challenges, it is going to take a massive investment by both the public and private sectors. Without the time-proven incentive of intellectual property protections, private sector funding could dry up. The “public good” is served by a system that rewards investment, ingenuity and hard work. It benefits us all.

There are proven, commercially viable ways to ensure the technology gets to where it is needed. Deployment problems in the past have not been due to IP rights, but to other issues such as tariff barriers, poor infrastructure and so on.

Q. China is demanding that if they build cleaner power plants or the like, it's the rich West's responsibility to provide the better tech or pay the difference based on historic responsibility for the CO2 buildup so far. There seems to be some basic logic there, no?

A. Over the last several months, we've seen quotes from officials from China and India strongly suggesting that technology transfer is their price for participation in any international global emissions agreement. We don't yet know precisely what they mean, but we want to make clear that the way to solve global problems, create jobs and spur economic growth, is to allow innovation to flourish, and protecting IP rights is key to that.

Again, if you stifle innovation and creativity by removing the incentive, you stifle advancement, and harm those you are looking to help. China has invested in many new technologies that will help reduce CO2 emissions. In fact, they are leading the developing world in this field. China has benefited from a transparent IP system that has allowed them to learn from others' successes. They have developed industries in a period of years that took the West generations to build. We cannot put a time-proven system on the auction block in climate change negotiations.

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JUDICIARY

Industry Groups Launch Effort On 'Green Tech' IP Rights

By Andrew Noyes

Wednesday, May 20, 2009

A coalition backed by the U.S. Chamber of Commerce, General Electric, Microsoft, Siemens and other multinational firms is pressing the Obama administration and key lawmakers as trade negotiators prepare for U.N. climate-change talks this summer. The initial focus of the Innovation, Development and Employment Alliance, which was officially launched today, is protecting the patents of green technology manufacturers, who fear countries like Brazil, China and India will push for compulsory licensing carve-outs for alternative energy innovations. A series of meetings begin next month and will lead up to the U.N. Framework Convention on Climate Change in Copenhagen, Denmark, in December, where parties will seek agreement on reducing greenhouse gas emissions.

On Capitol Hill, Sens. **Orrin Hatch**, R-Utah, and **Evan Bayh**, D-Ind., have championed IDEA's effort, GE Chief IP Counsel Carl Horton said. Hatch and Bayh were integral in getting domestic IP enforcement legislation signed into law last year, and business interests hope this issue will have the same momentum. The group is trying to cultivate support from labor unions, but so far none have signed on as members. Hatch and Bayh are circulating a "Dear Colleague" to be sent to President Obama that argues for strengthening green IP rights. The U.S. government "cannot afford to sit idle while others seek to weaken IP protections," the letter states. "America must ... be willing to confront those countries and organizations that attempt to weaken IP rights."

State Department officials, who are preparing for the negotiations with a broader focus, have been briefed on the IP component and are looking to lawmakers, especially House Energy and Commerce Chairman **Henry Waxman**, for guidance. Waxman's panel is marking up climate and energy legislation this week. Meanwhile, IDEA's organizers will roll out the next phase of their initiative in Europe this summer. The group has already been working with the WTO and the World Intellectual Property Organization as well as trade groups in Germany, France, Japan, South Korea, and the United Kingdom to improve existing trade policy and IP tools. David Hirschmann of the Chamber's Global IP Center said the group will also work to eliminate trade barriers to environmental innovation. Some of the highest tariffs in the world apply to green technology, he added. Companies have already sunk hundreds of millions of dollars in developing wind turbines, solar panels and other technologies. For its part, GE said it is on target to meet its 2010 goal of spending \$1.5 billion on green tech R&D a year early, and it sold \$17 billion worth of those products in 2008.

Article printed from *Green Patent Blog*

New Alliance's Big IDEA: Strong IP is Essential for Green Innovation

Sunday, May 17th, 2009

In a timely push to demonstrate the critical role intellectual property (IP) is playing and will continue to play in the development of clean technologies, the U.S. Chamber of Commerce and business leaders will launch the Innovation, Development & Employment Alliance (IDEA) this Wednesday, May 20, 2009 ([idea launch press release.doc](#)).

IDEA's mission is to educate policymakers and the public about the fundamental role of IP rights in promoting innovation in the clean tech space. The Alliance asserts that robust IP protection is needed to encourage investment in clean tech research and development, create green jobs and find solutions to the world's energy and environmental challenges.

IDEA's immediate priority is to urge Congress and the Obama administration to maintain strong IP protection for innovators as the U.S. engages in international talks related to the U.N. Framework Convention on Climate Change (UNFCCC).

I spoke with Caroline Joiner, the Vice President of the U.S. Chamber of Commerce's Global Intellectual Property Center (GIPC), who expressed concern about the "anti-IP push" of the UNFCCC and called the talks "the IP battle of the year."

What worries Ms. Joiner and other members of the Alliance are calls coming primarily from developing countries to weaken IP rights in energy efficiency and environmental technology. Even the current U.S. Energy Secretary, Steven Chu, suggested weakening IP protections, advocating a "very collaborative" effort: "by very collaborative I mean share all intellectual property as much as possible." (see the [IP-Watch op-ed](#) by David Hirschmann, President & CEO of the GIPC).

Advocates of this approach see a strong patent system as a barrier to technology transfer, especially in developing countries, and call for exceptions to the system such as compulsory licensing.

However, their premise - that IP rights hinder tech transfer of clean technologies to developing countries and emerging markets - has been refuted recently by a [European Commission report](#) that found no evidence of any such IP-related barriers (see my post about the report [here](#)).

The EC report found that there are hardly any clean tech patents in developing countries, and the high cost of implementation in these countries is more likely due to the immaturity of the technologies than to patent rights. The report actually concluded that strengthening patent regimes in emerging markets could stimulate both local innovation and transfer of technologies from foreign patent holders.

IDEA has invited members of Congress and other policymakers to the launch event, which will be held at the National Press Club in Washington this week. Ms. Joiner said the format will be a “roundtable discussion” of these issues. The Alliance members attending the launch event include:

David Hirschmann - President & CEO, U.S. Chamber of Commerce’s Global Intellectual Property Center

Andy Cefranic - Bendix Commercial Vehicle Systems

Carl Horton - Chief Intellectual Property Counsel, General Electric

Bill Keith - President & CEO, Sunrise Solar

Susan Mann - Senior Director of Intellectual Property Policy, Microsoft

Article printed from *The National Journal (Congress Daily)*

TECHNOLOGY

Business Groups Join To Protect 'Green Tech' IP Rights

By Andrew Noyes

Monday, April 20, 2009

A coalition backed by the U.S. Chamber of Commerce, major U.S. firms and possibly organized labor plans to launch an effort next month to influence U.S. government policy as negotiators prepare for United Nations climate-change talks this summer. The group will focus on protecting the patents of green technology manufacturers, who fear certain countries will push for compulsory licensing carve-outs for alternative energy innovations. Parties to the UN Framework Convention on Climate Change will meet in Copenhagen in December to reach an international agreement on how to reduce greenhouse-gas emissions. A 2007 action plan for UNFCCC encouraged parties to "avoid trade and intellectual property rights policies, or lack thereof, restricting transfer of technology," but it did not offer a common definition of what technology transfer is or what form it must take. Countries such as China and India have indicated interest in exemptions that would let them piggyback on the achievements of U.S. companies without adequate compensation, according to Mark Esper, executive vice president of the Chamber's Global Intellectual Property Center. Multinationals like General Electric and Siemens are already investing hundreds of millions of dollars to develop wind turbines, solar panels and other technologies to address climate change. Those products, which are engineered and manufactured in the United States, can then be sold and licensed overseas.

President Obama has said he wants to create 5 million U.S. jobs through green technology and called for an 80 percent emissions reduction in greenhouse gas by 2050. To that end, Obama wants 10 percent of the nation's electricity to come from renewable sources by 2012 and 25 percent by 2025. Much of that would be achieved through high-tech advancements. "If the administration's negotiators do not protect [intellectual property], Obama's vision is going to be shot," a Chamber official warned. Business leaders have already flagged the intellectual property issue for the State Department, but negotiators are largely focused on the big picture of emissions reduction. "We want to put this on their radar screens as they move forward," Esper said. A State Department spokesman said protection might come up April 27, during one of many climate-change meetings preceding Copenhagen. The coalition will join efforts underway by the Chamber and firms like GE to educate lawmakers and administration officials. House Global Warming ranking member **James Sensenbrenner** has already weighed in with a letter to Energy Secretary Chu, seeking clarification of the administration's position on intellectual property rights and energy technology. Chu is said to express an interest in sharing IP "as much as possible," said Sensenbrenner, but he added there would be no technologies to share with developing nations if U.S. intellectual property is not protected. The Chamber hopes to articulate its position during Earth Day and World IP Day, both of which are observed this week, as well as at a transatlantic piracy and counterfeiting summit it is hosting later this month.