

R. Danny Huntington and Sharon Crane at FICPI 2022 World Congress & ExCo

Speaking Engagement
Cannes, France
9.28.22

Partners R. Danny Huntington and Sharon Crane will moderate sessions at the FICPI 2022 World Congress & ExCo taking place September 25-October 1, 2022, in Cannes, France.

On Wednesday, September 28, Danny will moderate a session titled "Out on Technicality." IP Offices around the world were prompted to suspend or extend deadlines in the face of disruption during the Covid-19 pandemic. In some jurisdictions, this situation established a noticeable contrast with the usual policy of Offices to be strict with respect to granting extensions or restoring IP rights lost in view of a technicality or the missing of a deadline. Let's consider that the goal of the IP system to encourage innovation stems mainly from economic fundamentals: risk capital and effort put into innovation must be sufficiently rewarded or investment in innovation will decline. Looking with renewed perspective on old paradigms, we should ask the following questions when an IP right is accidentally terminated prematurely:

- What is the economic rationale for prematurely terminating an IP right on a technicality or because a deadline was accidentally missed?
- Is premature termination of an IP right on a technicality conducive to the overall benefits sought by the IP system?
- Should an involuntary, often petty, mistake made by an IP owner or his/her representative cause an IP right to lapse?
- Does society benefit from such premature termination?
- What is the reason for sometimes draconian legal interpretations by IP Offices and courts to reject requests for reinstatement of terminated IP rights?
- Is the justification to penalise an IP owner in the harshest possible manner for accidental non-compliance with a legal requirement influenced by moral considerations? If so, isn't perhaps a moral assessment of the matter misplaced and/or outdated?

Key Contacts

Sharon E. Crane, Ph.D.
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Related Areas of Practice

Patent Prosecution

Sharon will moderate a session titled "Eligibility: Whither the Patent System?" also on September 28. The U.S. Supreme Court opinions in *Mayo*, *Myriad* and *Alice* have caused "massive uncertainty and unpredictability" over what is an "abstract idea," a law of nature, or a natural phenomenon and thus not eligible for patenting. The lack of protection in key areas of technology has been said to have a "chilling effect" on investment and to discourage commercial development of potentially valuable inventions. The Federal Circuit has declined to use the USPTO's guidelines which attempted to reduce the uncertainty, and asked Congress to deal legislatively with the unpredictability the Supreme Court cases have created. Stakeholders are divided on whether legislative reform is appropriate: a "Pro-reform" group seeks change to provide clarity, while an opposing "Concerned" group of stakeholders are content with the status quo and resist the potential availability of broad exclusive rights. They say innovation in many areas can thrive without patents. The panel, including former Chief Judge of the Federal Circuit, Paul Michel, one of the leaders of the "Pro-reform" group and an outspoken advocate of the need for legislation, will discuss:

- What should be the reach of patent rights?
- Are current laws are fit for purpose to ensure the patent system delivers on its economic and societal objectives?
- Does the current situation in the U.S. really does result in excessive costs for patent owners, burdens on the courts and patent office, or deleterious impacts on investment decisions and innovation?

Speakers will highlight the respective positions of "Pro-reform" and "Concerned" groups who are negotiating possible legislative changes to 35 U.S.C. § 101; and will explore and compare the current U.S. system with those of Europe and Asia.

The FICPI World Congress provides attendees with an opportunity to listen to and debate with the experts on recent international developments in intellectual property protection and their impact on day-to-day practice.

To see the full Congress agenda, please [click here](#).