



May 13, 2024

## **IIPSJ Comments on Unlocking the Full Potential of Intellectual Property by Translating More Innovation to the Marketplace**

The following comments are submitted in response to the Request of the United States Patent and Trademark Office (USPTO), Department of Commerce, as published in the Federal Register Vol. 89, No. 52, Friday, March 15, 2024 (FR Docket No.: PTO–C–2024–0004), seeking comments on how the USPTO can build on current initiatives to accelerate, incentivize, and otherwise support translation of innovations to the marketplace through commercialization using intellectual property rights.

### **Committer Information**

These comments are submitted by the Institute for Intellectual Property and Social Justice (IIPSJ), a not-for-profit non-governmental organization established to promote social justice in the field of intellectual property law and practice. IIPSJ advocates implementing core social justice principles of equitable access, inclusion, and empowerment throughout the IP ecosystem. IIPSJ's work includes scholarly examination of IP law through a social justice rationale; advocacy for social justice in the shaping and implementation of IP law and policy; initiatives to increase the diversity of the IP bar; and programs which promote greater awareness and understanding of IP protection, particularly among historically and currently disadvantaged and underserved groups.

### **Summary of IIPSJ's Comments**

The USPTO's current initiative is an important step in implementing the Unleashing American Innovators Act (UAIA) and other legislation which seeks to promote greater inclusivity throughout and otherwise achieve the social justice obligations and effects integral to an effective intellectual property ecosystem. A targeted and comprehensive strategy for ensuring that all Americans enjoy meaningful opportunities for access to, inclusion in, and empowerment through IP endeavor and achievement is critical to the national security, gross domestic product, and cultural and technological advancement. Accordingly, IIPSJ commends and recommends continuing several initiatives of the USPTO in response to its requests (1), (3), (4), (9), (11), (12), and (13), including:

- Identification of underserved groups who are potential sources for commercializing innovation, including pre-university students, students and researchers at HBCU's, veterans, members of rural communities, members of the disabled population, senior citizens, and adult learners;
- Expansion of existing educational programs to disseminate awareness of intellectual property laws and the mechanics of commercialization;
- Realization of the potential of the Community Outreach Offices (COOs) to establish networks between overlooked and underserved innovator populations and traditional professionals (attorneys, engineers, venture capitalists, investors) to facilitate the developments and commercialization of innovation.



**IIP SJ’s General Comments**

The success of the Bayh-Dole Act stemmed from identifying inventors whose innovative accomplishments lay dormant and unavailable for the benefit of the public. By allowing inventors in universities who were denied patent rights because they had received federal government funding the legal right to obtain a patent for their innovations, the path was set for dissemination to the public through the pathways of commerce.

The UNIA and the USPTO continue the spirit of the Bayh-Dole Act by looking beyond universities to cultivate other settings wherein innovative minds seek to benefit their fellow citizens through the pursuit of commercial pathways, paved in part by utility patents, design patents, and trademarks. As a result of various governmental, private sector, and public interest initiatives, many groups and communities with little to no understanding of IP protection are gaining IP awareness and education and are gradually joining the ranks of university professors, graduate students, and researchers in federal laboratories through recognizing the value of commercialization. Through programs designed to identify and cultivate our nation’s “Lost Einsteins”, students at the K through 12 level are being educated as to the breadth and importance of IP endeavor and receiving concomitant training in entrepreneurship and intellectual property. Veterans have been another group that the USPTO recognizes as an innovative community whose potential has yet to be guided and unleashed. The USPTO has also recognized the overlooked talent in Historically Black Colleges and Universities (HBCU’s).

As enumerated below, these enhancements to current initiatives respond to the USPTO’s requests 1,3,4,9,11,12, and 13.

**IIP SJ’s Responses to Specific Requests**

*Community Outreach Office IP Awareness and Education*

In response to request (1) as to the biggest challenges to and opportunities for commercialization of innovation, we point to the need for education about intellectual property to various individuals and groups beyond professionals such as attorneys, venture capitalists, and university researchers. Grassroots intellectual property education brings awareness to overlooked constituencies, such as the identified K-12 students and students and researchers at HBCU’s, and also to members of rural communities, the disabled population, the senior citizen demographic, and veteran groups. This broader group of “Lost Einsteins” can enhance their socio-economic opportunities and attain personal fulfillment through tapping their potential for innovation and commercialization.

Critical and emerging technologies have often centered on pharmaceuticals and informational technologies. But the expansion of the potential beneficiaries of IP awareness and education can unleash a broader set of critical and emerging technologies as referenced in request (3). For example, the disabled population can identify ignored technological responses to the needs of disabled sub-groups, such as the visually handicapped or the mobility challenged. Similarly, the veteran population can identify innovations for delivery of medical and psychiatric services, for example through developing generative artificial intelligence technologies or through more traditional information technology tools. Overlooking these and other “Lost Einsteins” not only fails to cultivate and tap our nation’s resource of human talents but also denies communities the opportunity to meet their needs that innovation can address. Increased IP awareness and education can address these gaps through identifying overlooked critical and emerging technologies.

To streamline and accelerate innovation, per request (4), the USPTO should recognize that IP awareness and education entails not only disseminating knowledge of the law and agency practices, but also requires enabling connections between overlooked potential innovators and professionals who can facilitate these innovators’ ideas. Such connections include bringing together members of disabled communities with engineers who can create prototypes of their ideas, attorneys who can pursue the necessary patents and trademarks, and investors who can

provide capital for commercialization. Some may argue that creating these connections is not within the USPTO's authority. But this conclusion views the USPTO's role too narrowly. As a pragmatic matter, the Office is in the best position among existing government agencies to initiate the networking between innovators and professionals as critical parts of its awareness and education efforts.

IIPJSJ further advocates for an expansion of the USPTO's Patents & Partnership Platform, in response to request (9). Further, the new Community Outreach Office provided for by the UAIA, in coordination with the USPTO Patent and Trademark Resource Centers and the USPTO Patent Pro Bono Program, can serve to both expand IP awareness among our nation's Lost Einstein cohorts (pre-college students, veterans, disabled, rural population, senior citizens, students and researchers at HBCU's) and to connect them with traditional professionals who serve the goals of commercializing innovation. Through the COOs, the USPTO can enhance the coordination between and efficacy of these existing initiatives.

### *IP Education for Adult Learners*

Adult learners, particularly students in community colleges, have yet to be fully appreciated for their potential contributions to innovation. Per request (11) and (12), we highly recommend that the USPTO develop programs, modelled on existing programs for K-12 students and veterans, to promote IP awareness and education in community colleges. Existing programs can be tailored to the specific needs of adult learners, through intensive online outreach as well as in person colloquia to identify other "Lost Einsteins" among the adult community.<sup>1</sup>

Adult education programs in community colleges bridge secondary schools and the universities that are the subject of Bayh-Dole's largesse. In 2023, there were 4.5 million students enrolled in public 2-year postsecondary institutions and just under 178,000 students in private for-profit postsecondary institutions. Sixty percent of students enrolled in community colleges are women, and over a million are Hispanic and over 650 thousand are African American. The pool of talent is diverse and representative of the cohort of "lost Einsteins" that the USPTO seeks to reach. As our research progresses, we would like to expand its scope to study this group of students as potential beneficiaries of intellectual property and entrepreneurship education. Preliminary discussions with policymakers focusing on adult education have proven to be promising and should prove important to expansion of the USPTO's efforts, per requests (12) and (13)).

Also, pursuant to requests (11), (12), and (13), including adult learners would complement existing USPTO programs. Veterans are a significant part of the community college and university population, and many have received technical training through their military service. Organizations like the Veterans Administration and the Veterans Center at Syracuse, New York, have valuable information about the veteran population and can serve as a channel for disseminating educational materials on intellectual property and entrepreneurship to this expanding population that is both diverse and a powerful resource for innovation. Furthermore, adult learners often use the community college system as a bridge to universities, including HBCU's, a focus for the USPTO efforts to promote innovation. By including adult learners in their purview, the USPTO will fortify its existing efforts to spread education on entrepreneurship and innovation.

### *USPTO/HBCU Partnerships*

Pursuant to requests (9), (11), and (13), specifically, we urge the USPTO to continue and to enhance its efforts to expand IP awareness and initiatives at HBCU's. The Office's work has been referenced at several points in these comments. We bring together these various points to emphasize the need to recognize all unrecognized

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<sup>1</sup> The North Orange County Community College District Center for Entrepreneurship in Anaheim, California offers Adult Education programming which provides a model example of Adult Learner curricular and extracurricular IP awareness and education opportunities. <https://nocccd.edu/>.



groups as potential innovators. HBCU’s provide well-established and trusted venues through which to carry out the various initiatives for which we advocate. Better financial and educational support for Technology Transfer Offices at HBCU’s can serve as models for other underfinanced educational institutions. Established universities also provide a forum for outreach for IP education and awareness of commercialization, including intermural collaborations and networking with attorneys and investors instrumental to the commercialization of innovation.

**Conclusion**

Success stories populate newspaper headlines, praising university researchers and high school students who have successfully obtained patents. These headlines bespeak the power of programs that identify and support IP entrepreneurship education. These programs confront the fact that “A student’s opportunity is too often limited by their zip code, race, and class.” As the researchers for the “Lost Einstein” project warned: “Innovation has slowed in the U.S., stymying economic growth. To get back on track, the U.S. needs more low-income children, women, and minorities to become inventors—but that won’t be easy.” IIPSJ commends the USPTO’s current initiatives and the present effort to implement a coordinated and expanded national IP and innovation strategy.

Respectfully Submitted,

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