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**Concurrent Sessions III
Session C: IP Counsel IP Management Issues**

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PROF. CONLEY: Good afternoon and welcome to the final session of The John Marshall Law School Conference.

My name is James Conley. I'm a faculty member at the Kellogg School of Management at Northwestern University up the way. I am not a lawyer, and so today it has often been baffling and confusing for me listening to all the language. But I am an inventor, I invented many things together with a fellow named Jerry Lemelson, and I learned the business of licensing from this gentleman, and hence I found my way into a management faculty, and hence this session being entitled "IP Management."

I am joined by distinguished practitioners and professionals from industry, starting with Mark Campagna, who is an executive at TiVo Corporation, the folks who make interesting contraptions for digital video recording and the like. Gary Friedlander is with TransUnion, so if anyone has any questions on their credit score, he is the man to see. Jomarie Fredericks works with Rotary International, an organization that I hope she will tell us more about, which is really committed to the common good. Finally, Jay Krames, with PricewaterhouseCoopers, is going to help us understand how automation technologies are going to figure into the calculus of IP management and in-house counsel challenges going forward.

With that brief introduction, let me also say that we are the last session standing between us and drinks, so we will try to be efficient with our time to make sure there isn't a big, long line at the bar when we get there.

Let me start by asking some high-level questions of our colleagues.

Jomarie, I think that this audience needs to hear a little about what Rotary is and why the brand and trademark issues are so important to this global service entity.

MS. FREDERICKS: Rotary International is the worldwide association of Rotary Clubs. You are probably familiar with Rotary Clubs or the gearwheel symbol that you see as you drive into pretty much every town throughout the United States and throughout the world, but you may not be that familiar with what we do.

Many times when I tell people where I work, they tell me they have a connection to Rotary. They'll say, "My dad was a Rotarian" or "my uncle was a Rotarian" or "my daughter went abroad on a Rotary scholarship," but they don't really know what we do.

We are a humanitarian association. We are headquartered in Evanston, Illinois. Our local clubs are autonomous, which means they operate within certain guidelines. They are chartered by the parent association, but what they do on a daily basis or a weekly basis, or which projects they engage in, is very much up to them. That's because Rotary Clubs are tailored to meet the needs of their local community.

A local community in Evanston, Illinois might provide scholarship funds or partner with a club somewhere else in the world, so they can work together on clean water supplies or something like that. But the needs of a local club in a third-world country would be very different than they are in the United States. Rotary International provides a number of global programs that clubs can choose to participate in or not, depending on what best meets the needs of their local communities. Rotarians are people who get very involved and donate a lot of their own time and their own money to try to improve conditions for people all around the world.

We do have a global project. We are partnered with the Bill and Melinda Gates Foundation and the World Health Organization to eradicate polio globally. That has been a big push and a major concern for many years. I believe there are now only three countries where the polio virus is still alive, and it has proven very hard to eradicate in those last few tiny pockets of the world.

PROF. CONLEY: Let me interject based on that. Rotary sounds like an organization that has very decentralized control, right? You're at the top and there

are folks who take a license to practice the Rotarian promise, as it were — and I'm not sure if I'm describing that the right way — but there is a lot of local control over the mission and the actions of the various Rotarian chapters.

What is the brand for such an organization, what does “brand” actually mean, and how does the practice of a trademark attorney figure into building and supporting this brand?

MS. FREDERICKS: As you pointed out, we don't make widgets, we are not a consumer product company, so I think it is more difficult to see the connection between the brand and the necessity to protect it. In my opinion, it is even harder and more important to protect it because we don't make widgets. It is not necessarily an easy connection. A company that has a machine or a part puts its brand name on it, or a recognizable shape, or something like that. All we really have is our name and our logo and our people. When our people go out around the world to administer polio vaccine, they will wear branded goods. The brand is recognized, and people in various countries have come to recognize the brand and they trust us.

We protect the brand globally from Evanston. I have a team of four. We license the right to use the marks in a variety of ways.

We have a group of licensed manufacturers, licensed distributors, that make goods, tchotchkes, with the mark on them — pins, crystal speaker commemoratives, coffee mugs, T-shirts. Rotarians will wear the T-shirts or the vests when they are out administering polio vaccine or building a road or something. We license the right to reproduce and sell the mark on goods.

We license a global system of magazines that are produced in different countries and in different languages all around the world. They have certain elements about them that tie in with the same look and feel, and they carry some mandatory content so that they look like they are part of a global magazine system.

You said we are decentralized. We are and we aren't. We are in the sense that I explained to you. The clubs are autonomous in certain things that they may choose to do, but they are also part of a global whole and they have to do certain things to become chartered and to maintain their charter.

So think franchise. Our clubs are not franchised, but it's the same kind of concept. To be part of the parent organization you have to do certain things and in return you get certain rights. Our clubs are allowed to use the marks according to guidelines that are promulgated by our board of directors and codified in our Code of Policies. As long as the clubs follow the guidelines, they can use the marks in various ways. Not only can they, but they are encouraged to please do so, because the more they use the marks, so long as they use them correctly, the more recognition there is. Remember, we are not a consumer products company, so our people using the marks on their websites and on the materials that they use when they are doing things out in the field is how we get brand recognition.

We have a lot of brand recognition. We were founded in Chicago in 1905, so over those 113 years we have built a lot of recognition. We have court decisions in many countries that give us either famous brand recognition or well-known mark status. Through this use, as long as it is correct, we gain a lot of recognition, and that makes the brand stronger.

Our rules are very specific that brand ownership rests with Rotary International. If we divested the ownership among 35,000 member clubs or 1.2 million individual Rotarians, the rights in the marks would become very diluted and very weak. Therefore, we centralize all of the rights to keep the marks strong with the parent company.

That's all well and good. But when you translate that into 200 different cultures and languages and practices, it doesn't always get done exactly the way we would like, by the rules. So it requires constant education of our membership, going out and saying, "You may not have understood when you did this, we realize you were trying to help, but what you are actually doing does not comply with our guidelines and rules."

If a club in some country, for instance, files a trademark application in that country for a mark that includes the word "Rotary" or the gearwheel emblem, thinking they are helping, that they are going to make the mark really strong, we come in and say, "You may not have had a chance to read the guidelines. We encourage your use so long as you follow these guidelines, but no ownership rights are ever extended to the membership." Then we work with that club to bring the rights back, to either have them withdraw the trademark application or transfer it to us.

We do not do that through our legal department. We do that through our membership team, which is called Club and District Support, because they have lots more resources than we do and they speak all the languages. We have a big global team in nine international offices that help us in this effort.

PROF. CONLEY: Thank you, Jomarie.

Now I want to move to Gary, who is in a different kind of enterprise. This is essentially FinTech — that's what I'm going to call it.

What is it that TransUnion really does? I have five teenagers and I want them off the payroll. Then tell me what the brand is and the role of trademarks at TransUnion.

MR. FRIEDLANDER: TransUnion is one of the Big Three credit bureaus in the United States. We also operate in other fields, such as healthcare, helping hospitals identify patients who may be eligible for some kind of financial assistance. We also work in the fraud prevention area.

But probably what a lot of people don't know is that we have offices or customers in more than thirty countries worldwide. With the exception of a couple of countries, our niche is emerging markets. We work in those markets to help governments spur financial inclusion, getting people who are unbanked — and there's a huge population of people in these markets who don't even have a banking account — get into the banking sector, get them into the credit economy, whether it's microfinance or regular types of loans, to help them to invest, oftentimes in their own businesses, and help create a middle class.

Our crown jewel is the TransUnion name. We are well-known throughout the emerging world as TransUnion. We have been operating since 1968 in the United States and since the early 1990s globally.

We do a lot of registration of trademarks in multiple countries for not just the crown jewel but also a lot of key product names. We also do patent filings.

Obviously, the financial services patent market has taken quite a hit with the current case law, but we continue to file patents in the hope that the pendulum will eventually swing back the other way.

PROF. CONLEY: I have a specific digression on that, Gary, before you answer the other questions.

I have been watching — and I think everyone who has been at this conference, starting with the sessions this morning — and we have all been hearing about the challenges of Section 101 and other patent issues that are essentially raising uncertainty, especially in the areas of things like software — FinTech, which is your business — and, in fact, maybe even blockchain, which is the distributed ledger technology that is making its way into our collective ability to efficiently produce.

That noise that we are hearing about today is all based on the uncertainty of the United States. There are other countries that are seeing this uncertainty, that are moving into the lurch, that are saying: “Bring your blockchain prosecutions here. We guarantee that we will review them and you will get an answer in six months. We are the backdoor to the [Patent Cooperation Treaty](#) (PCT). You can take it back to the United States with an approval” — I’m thinking of Singapore — and then, of course, if you are the right-sized entity they will pay for the prosecution.

Have you thought about filing patents in places like Singapore?

MR. FRIEDLANDER: We haven’t filed anything in Singapore. We do file in multiple countries. We have had some limited success with financial services patents in the United States. I like to think that is because I picked a really good law firm to work with. We have successfully filed in Canada. Where we can get business process patents issued — there are not a lot of countries that will do that — we will file in those other countries.

PROF. CONLEY: The Singaporean [FinTech Fast Track Initiative](#) was launched in April of this year.¹

MR. FRIEDLANDER: We haven’t looked at that.

PROF. CONLEY: They are very aggressively looking for customers like you. They are actually playing the game: “The United States is confused. Okay, here we are. For Southeast Asia come here.” That is Singapore’s national policy posture, which I find fascinating.

MR. FRIEDLANDER: Absolutely.

PROF. CONLEY: I’ll be interested to see, if we have this conversation two or three years from now, whether or not you are filing these patents first in Singapore, because from there you can go everywhere else, and if you go there first they guarantee you an answer in six months, and if not they pay for all your prosecution.

MR. FRIEDLANDER: I’d be curious whether Mauritius will follow suit because they have a number of tax treaties, for one thing, with a lot of African countries and with India.

PROF. CONLEY: I do a lot of work with the World Intellectual Property Organization (WIPO) helping developing countries. The Caribbean Community

¹ Intellectual Property Office of Singapore Registry of Patents Circular No. 3/2018: Launch of FinTech Fast Track Initiative: An Accelerated File-to-Grant Service for Financial Technology Patent Applications.

(CARICOM), which you may know is a collection of fourteen island states in the Caribbean, is looking at the Singaporean model and trying to figure out how to make that work for them.

On the trademark side, I'm seeing little Antigua think about being the Madrid registrant for trademarks like MAUI WOWIE and PANAMA RED — all those dope strains that some people used to smoke when we were younger — that they cannot register in the United States for that class of goods and services, but they can register them in Antigua. You could do that as a backdoor as well.

There are all sorts of interesting things. I'm wondering if those are on the radar of in-house counsel.

Any comments?

AUDIENCE [Mary Jo Boldingh, Principal, Boldingh IP Law LLC]: I'm not sure if that's an option for a U.S. citizen, somebody like Mark, because you need to file in the United States first.

PROF. CONLEY: If that's where the use is, yes.

AUDIENCE [Ms. Boldingh]: But I think a foreign inventor needs to file first in the United States.

PROF. CONLEY: Yes, for a patent. I'm thinking of trademarks like MAUI WOWIE, PANAMA RED.

MR. FRIEDLANDER: I don't think you would necessarily have to have a counterpart in the United States to file foreign.

AUDIENCE [Tom Kaczmariski, Continental]: U.S. inventors would have to file in the USPTO Receiving Office.

PROF. CONLEY: Back to Gary, you described TransUnion, the umbrella brand, and then its product brands. How is it that the invention of technology that is done inside TransUnion, maybe as embodied by these patents that you file, percolates up to what the meaning of the brand is? That's actually an important connection. That's what we teach in management school: you don't invest in technology unless you can turn it into something that builds your reputation. That is a logical link between what would be a patented technology, something that you invested in that you try to protect, and the brand, whether it's the product brand or the umbrella brand. I'm wondering if there is any connection there.

MR. FRIEDLANDER: There is a connection obviously. Like most companies, we go through a planning process every year, usually three to five years out, and we look at what we want to be, what's in the pipeline, what types of things we can offer in different markets, depending on the problem, including the regulatory environment for one thing.

We are very big on moving IP globally, whether the IP is invented here or invented in one of our subsidiaries elsewhere. So we do a lot of intercompany agreements, work on transfer pricing and all those things.

PROF. CONLEY: That's for tax reasons.

MR. FRIEDLANDER: All of it is aimed to support the overall brand that we are building globally.

With consumer empowerment we are doing other things. For example, we have a product called Credit Vision on which we partner with a lot of banks, so you as a consumer of the bank can go online and automatically for free see your credit

report or your credit score online. We also have a simulator where you can see “If I pay this off, how does that affect my credit score?” We started out in the United States, but we are now doing that globally.

That is one of the things that we do as part of the TransUnion brand and what we promote in various advisory forums and in international conferences. For example, I was in India a few weeks ago at the World Consumer Reporting Conference. These are the kinds of things we are putting out there.

PROF. CONLEY: I’ll come back to both of you on this.

Now I want to move to Mark, who is with TiVo. These are the folks who brought us DVR technology. He is a vice president who has P&L responsibility, so he is the person who is actually trying to make profit based on IP assets.

You are also a lawyer. Tell us a little bit what is different about your job versus perhaps an in-house counsel, and what are the real challenges that you see going forward for TiVo.

MR. CAMPAGNA: A few words about TiVo. We obviously make the DVRs that we are known for. We also make a lot of the software that powers the DVR, which we call Content Discovery. It’s surfing across platforms, finding your favorite show, whether it be on Netflix or your cable company or Amazon Video, whatever the case may be. So we have all the technology that allows that to happen behind the scenes.

Our company has about 1000 employees, and of those thirty-five people are in the IP department. We are set up a little differently. The IP department is separate and apart from the legal department.

The IP department is responsible for business. There are several different product businesses and then there’s IP, which is its own business. We make approximately half the revenue of the entire company, those thirty-people, and the other 1000 people make the other half of the revenue. So it’s a small but very efficient group.

The sorts of things we run into are we have 5000 patents that we need to look at and figure out how to monetize. Some of the challenges that we are running into with that include some of the [Alice](#) issues that were talking about earlier today, the inter partes reviews, and the [eBay](#) decision, which are making it more difficult to monetize patents or making it a lengthier process. We then try to explain that to our management, which is used to the fact that “Hey, this is a big money-making machine over here in the corner and why aren’t you guys making 10 percent more than you made last year? That should be easy because you’ve been doing it for the last ten years,” or whatever the case may be.

We say, “Well, the law has changed, it’s a little harder, deals are taking longer, and these are some of the reasons.” The challenge I have is trying to explain that to management. There is a lot of nuance there that they are probably not appreciating.

PROF. CONLEY: In that context I like to use this analogy: at one time in football the forward pass was illegal. Where would we be without the forward pass today? I mean no one would even know how to play the game. That’s like the environment that you are in. Some of these things are really getting dynamic.

As someone who has the P&L responsibility, what do you think is the best way to change the attitude of those who can change the law? We have heard a lot of discussion about the pendulum is going back and forth, most of this from our legal friends. Now I want to hear the perspective of a person who has P&L responsibility. What makes you lose sleep for different reasons — the thirty-five people you employ, for example, and all that? What is your perspective on how we actually bring about this change?

MR. CAMPAGNA: I think it's tough. There are two sides to it in our view. You've got the Googles of the world that are very anti-patent, the reason being that they are mainly defendants in patent cases, so they see them as nothing but a nuisance. And then you have the rest of the tech, bio, and pharmaceutical world, which rely on patents to protect their investments and to protect inventions.

I think the other side is doing a much better job with their narrative, which is saying "patents are evil and trolls are bad" and all of that rhetoric, and we are not doing a very good job of articulating why the Patent Clause is in the Constitution and why the Founding Fathers thought patents were important, trying to tell that story, and then explaining why it is still relevant today.

All of us attorneys and business folks and corporations need to have a better voice on the Hill and in general, through social media and other avenues, to explain where we are coming from and why patents are important to us and important to small businesses and startups and the sorts of things we see a lot of in Silicon Valley.

PROF. CONLEY: Would you be open to the idea of looking at the options of prosecution forums like Singapore?

MR. CAMPAGNA: I don't do much on the prosecution side. To the extent that it could potentially benefit us, we see it more on the enforcement side now. We talked a lot about China becoming a more attractive place to litigate patents now. It's cheap, it's fast, and if you get an injunction in China against a company that who is manufacturing all its products in China, you are effectively getting a worldwide injunction; they can no longer ship out of China. That's a very powerful hammer to have.

So we have looked at whether there are better places to enforce than the United States, where it is very expensive, it takes a long time, and there is a lot more uncertainty today than there has been in the past around the enforcement of your patent rights, where you are spending a lot of money and not necessarily getting the results that you want. That is forcing us to look elsewhere.

We talked a little about the [Unified Patent Court](#) (UPC) in the last session. If that ever comes about, Europe could be a very attractive place to go litigate potentially. And I think China is going to become more important. A lot of these other jurisdictions are going to become more important over time unless the United States reforms itself.

PROF. CONLEY: This morning we heard from Detlef von Ahsen that the German system is getting 60–70 percent of the patent prosecutions in Europe. They have a very different setup, works a different way.

Now I want to move to Jay, who is with PricewaterhouseCoopers (PwC). I'm going to say a little something about his firm because we as a school that pre-

pares graduate managers send a lot of them to PwC. We are trying make them very productive and teaching them to think in a particular way. But there is a concern that much of what we are teaching is going to become automated and artificial intelligence is going to mitigate the power of these capitalists to extract the best opportunities for them professionally. This is diminishing, for example, interest in the MBA degree.

Jay knows quite a bit about automation and this new frontier, so I'm going to ask him to comment on that, and then I'll bring it back to IP. Jay, tell us what you're doing at PwC.

MR. KRAMES: Some of those fears are slightly justified, but most are unfounded.

PROF. CONLEY: Okay, good, I'm glad to hear it. Tell us why.

MR. KRAMES: For various reasons.

PwC has 55,000 employees in the United States. We sell our time, much like a lot of practicing attorneys do. We make money through client engagements, through the use of billable hours. Well, we need to change that because the world is changing, and we are doing that primarily through the use of automation. We are doing it in a couple of different ways.

Number one, on the business-led side some of our practices are trying to automate the most standardized processes that we do. Instead of an associate sitting for three or four hours ticking and tying and doing various rote tasks, we are creating software robots to do that. We are using tools like Alteryx to perform those tasks in a very, very short amount of time, with the idea of giving as many hours back to the business as possible.

PROF. CONLEY: Hold on. What does "giving hours back to the business" mean?

MR. KRAMES: Giving hours back to the business essentially is if I manually have to engage in a process that takes me three hours and a robot can do it in thirty seconds, essentially I have three hours in my day now that I can spend doing other things that add more value.

People may say, "Well, okay, but isn't that going to kill your billable hours because you're going to do it in a lot less time?"

There are people who are actually a lot smarter than I am who are working on different models to bill our clients differently, to try to extract the same amount of money for a shorter amount of time. So it would give hours back to folks to do things that add more value and that they actually enjoy doing to enhance their experience.

PROF. CONLEY: Do they have to have more training to do all of that?

MR. KRAMES: Absolutely — well, not necessarily to use the automation, but to create the automation, which is our piece.

As a sort of preview of coming attractions, on November 13th — and this day is approaching too rapidly for my liking — we are going to grant access to license programs called Alteryx, Tableau, and UiPath. Alteryx, think Excel on steroids. Tableau, think Microsoft PowerPoint on steroids. UiPath is a robotics application where you can literally drag and drop — you don't need to be a programmer to use it — and create desktop robots to perform particular tasks. We are granting

those licenses to 55,000 people. I was brought in because the partners who were discussing granting these licenses to 55,000 people asked, “What could possibly go wrong?” I said, “Quite a lot actually.” My job is I lead governance and curation around that entire process, the whole automation journey, at PwC.

PROF. CONLEY: What is governance, Jay? Please explain.

MR. KRAMES: When we think about corporate governance from a public company perspective, we are thinking of a committee of the board of directors ultimately responsible for oversight.

We are not a public company; we are a private partnership. When we think governance, we are talking more about enterprise governance. Really what we are doing is establishing a set of policies and procedures around creating these automations — and not just creating them, but sharing them across the entire firm.

I may create something on my own using one of these tools, but the goal is to put it up on something we are calling Digital Lab, which is a virtual storefront, and share it with everybody so thousands of us can use these tools, and even improve on them.

We need specific processes in place to make sure that the i’s are dotted and the t’s are crossed, P/E is taken care of, that we are not going out and pulling data from sites that we are not authorized to do in that particular manner, and so on and so forth. It is that set of procedures and formalities around the process of creating these automations and sharing them.

PROF. CONLEY: Building all of that governance sounds complicated, Jay. I’m wondering, based on what I heard in an earlier session here about privacy, how things like the EU [General Data Protection Regulation](#) (GDPR), which Jomarie knows something about, figures into this governance, because you have 55,000 people here in the United States and I know you’ve got a lot of people outside the United States.

MR. KRAMES: Right. The short answer is right now, today, it doesn’t. The reason it doesn’t is because we don’t allow for any cross-border transactions or any data coming into or leaving the United States. Talk to me in about six months and that is going to change.

PROF. CONLEY: How do you govern that?

MR. KRAMES: You govern that through the use of policies, procedures, and internal controls to prevent that from occurring.

As an example, somebody creates a piece of automation that they want to use to pull data from a client’s site. I have a team of twenty-one people whose job it is specifically to go through the code, to look through every piece of that particular procedure, to ensure that ultimately we are only using data from U.S.-based sources, and we work with the attorneys in our legal department to make sure we have the appropriate rights to be able to do that.

That will change as we globalize. PwC, for those of you who may or may not know, says we are a global firm. We’re really not. We are a global network of firms. We are all separate legal entities. We all have our own P&Ls and so on and so forth. There are different rights associated with each one of these member firms based on the territories where we do business, which is pretty much all over the world. We have about 250,000 people globally.

It does create issues, and we are going to have to deal with them in the short term through a very strict level of control to make sure we are complying. It is not just GDPR; the Germans have their laws, and some states are also coming up with laws.

PROF. CONLEY: The [California Consumer Privacy Act of 2018](#) goes into effect on January 1, 2020.

You are one of the largest employers on the planet actually. Two hundred fifty thousand is a big number. That's more than Caterpillar and its dealers.

MR. KRAMES: We are the largest private employer of attorneys in the world actually.

PROF. CONLEY: What specifically about the IP that's generated inside PwC is going to be a challenge with all this automation? We talked about automation and how it affects ownership, but how is it specifically going to be addressed by PwC?

MR. KRAMES: A couple of different ways.

Number one, a lot of these pieces of automation go outside the firm and they pull from subscription services, Gartner or irs.gov or any number of services. The question we have to answer is: Do we have the legal right to do that; do we have the appropriate licensing to do that; and, if we do, do we have the right to use the data in the manner in which we are using it; and can we use automation, can we use robotics, as a method to pull that data? Often the answer is yes. I can tell you — I'm sure it's not a big surprise — that the law is lagging the technology.

Not too long ago we got a cease-and-desist letter from Google because we were out scraping websites and the robot was crashing the sites, literally. The law of unintended consequences. We didn't realize it was going to happen. There was a very easy fix. It had nothing to do with IP necessarily, but it did have a direct impact.

In addition to that, if we are going to use Open Source software in any of our automations, the big question is: Does that impact our IP rights? Do we lose those particular IP rights? Based on the Open Source license that we are using, do we have to give it away for free now? That's not something my firm likes to do. [Laughter]

PROF. CONLEY: Is the management governance really then just the discipline of asking the questions and knowing when to ask the questions and then checking for compliance?

MR. KRAMES: Asking questions, creating procedure, training and educating, winning hearts and minds — there's a lot to it.

AUDIENCE [Kenneth Ng, Partner, Chang Tsi & Partners]: That is how the modern military is structured today. That's how special ops are structured. You can't govern every skirmish around the world, so they have, exactly as you said, the training, winning hearts and minds, and then "Go, you're on your own."

PROF. CONLEY: I want to bring that statement back to Jomarie.

Jomarie, you have a distributed enterprise at Rotary. I'm thinking about what Jay just told us. While yours isn't nearly as automated, I'm sure, especially in the developing world, how do you build this commonality with those who are communicating? You have a message that is the message of Rotary, and then you

have all these other folks doing messaging in various languages and various cultures. You talked a little bit about it, but how do you all stay on the same basic page?

MS. FREDERICKS: I don't know the answer to that, but it happens. It's the magic of Rotary. People say that, and it sounds silly, but you have 1.2 million individuals with a common goal.

We talk about "One Rotary." Here in Chicago we have "One Goal" for the Blackhawks, but I guarantee you "One Rotary" was not made up with that in mind because the people who created it probably didn't even know the Blackhawks. One Rotary integrates all aspects of Rotary activity for greater vibrancy, efficiency, effectiveness, and impact.

One Rotary is the mindset of people who want to give back. Most of them are at a place in life where they have a little bit of affluence or a little bit of extra time and they want to use it to do good in the world. The motto of our foundation is "Doing Good in the World."

We do help them with some of the messaging. We put out from World Headquarters in Evanston different PR tools or suggested media templates that they can use.

We do everything in languages. We have a team of translators in our Evanston office. We have another team of translators in our Zurich office. We do everything in six or seven languages automatically. We can use other languages if we need to. Every single thing that we produce is done in languages so that we are inclusive.

Our members are all part of this team. We try very hard to work against being U.S.-centric because that would alienate our members. We want to include our members. We try to always operate from a global perspective. We do run the majority of things from here in Evanston, but we do, as I mentioned before, have a number of international offices around the world.

So it's a single message. It's put out in a lot of different ways with a lot of recommended tools or suggested tools.

There are a lot of building blocks that they can get, a lot of free materials from our website. Our main [website](#) is in English and we also have a [ClubRunner Multi-Lingual](#) website. I only really ever go to the English website, but we have the multi-lingual website where all of our public relations tools and the media tools are available in supported languages as well as our Global Translation Project.

I may be getting off what your question was.

PROF. CONLEY: No. I want to know how you keep them all in line.

MS. FREDERICKS: We don't keep them all in line.

PROF. CONLEY: That's what I was asking.

MS. FREDERICKS: You can never, ever, ever keep 1.2 million people and 35,000 member clubs in line all the time. I think we keep the majority of them in line the majority of the time.

We constantly try, if there is an issue or if somebody or some club isn't following the rules, to bring them back into line. That can sometimes be very sensitive because these members or clubs are not third parties. If a third party is infringing the use of our marks, we go after the third party just like any other company would.

At least half as much of the time we have a member or a club that isn't necessarily following the rules. The way you go after somebody who is one of yours is different than how you'd go after a third party. You have to go after them in a kinder, gentler way. What you really want is for them to comply. You are not trying to beat them, you are not trying to win; you are trying to bring them into compliance.

You do that through a lot of training and education. We do a ton of training. We do training at our president level and at our district governor level. Our groups are organized into groups of clubs, into districts. The districts are organized into zones. The geography of the world is done in different batches so that you break it down into smaller entities that feed into the bigger whole.

We have leaders, if you will. We have district governors. There are 531 districts. Every district governor is an officer of Rotary International and they have a fiduciary responsibility to Rotary International to ensure that the guidelines are being followed by the clubs within their districts. Do they have a 100 percent success rate? Of course not.

But, hopefully, through education and training you get the governor to understand why it is important that these rules are followed — and I'm not just talking about intellectual property rules; I'm talking about all kinds of different things. IP is just one of the many things that we try to offer guidance on and that there are rules on.

Again think franchise. There are a lot of rules that you have to follow to maintain your position and to stay a part of the whole. If you don't want to follow them, okay, but you're not a part of us, so you can't use the name and you can't use the marks. You can go out there and be a great club accomplishing all kinds of things you want, but you're not a Rotary Club and you can't do it as part of the Rotary family using our brand. If you are going to be under our brand you have to comply with certain things.

PROF. CONLEY: Thank you, Jomarie. The reason I really wanted to bring that out is because your job is very different from others, quite frankly.

MS. FREDERICKS: It is.

PROF. CONLEY: It's building goodwill through the law and compliance and all of the rest, which is an alternative legal career, right?

MS. FREDERICKS: That's part of what I do. The other part of what I do is what a trademark lawyer would do at any other company. It's about half and half.

I work a lot with our board of directors. I draft board minutes. I draft code; I read a lot of code for our Code of Policies. I do a lot with corporate governance. But the other 50 percent of my job is the same as if I worked for a commercial products company. But it is this other half that's very, very different.

PROF. CONLEY: Along the line of doing goodwill, there has been a very interesting paper written by Professor Jorge Contreras at the University of Utah about patent pledges.²

² Jorge L. Contreras, *Patent Pledges*, 47(3) ARIZ. ST. L.J. (2015), University of Utah College of Law Research Paper No. 93 (Dec. 28, 2015, rev. Jan. 9, 2016).

Mark knows this question is coming his way. If you have a portfolio of 5000 patents and you are trying to optimize the value of them, is there some consideration of possibly contributing these patents, maybe not to the public domain, but to some kind of common good that might be manifest to a pledge? We have certainly seen some companies, like Tesla, make a big PR wave out of this kind of thing.³ How does that figure into the calculus of what you do, if at all, at TiVo, Mark?

MR. CAMPAGNA: I think it depends on what kind of a company you are. If you are a Tesla run by a billionaire who doesn't really need the money, if you're a Google that is big enough and powerful enough that you don't need patents as a way to make money, you can pledge them. There is the [License on Transfer \(LOT\) Network](#). They have different ways of basically trying to insulate them from patent lawsuits.

PROF. CONLEY: Explain the LOT Network.

MR. CAMPAGNA: It's License on Transfer. I don't know if any of you are familiar with it. If you join this group, then all your patents are subject to certain rules.

If you sell your patent to someone that they consider to be a troll — which they have a definition for — then that patent has a springing license, and then all the people in the LOT group are now licensed to use that patent, so it has become useless to trolls. The idea behind it is to try to immunize trolls from getting good patents.

That's great if your perspective on life is, "Well, we get sued all the time and patents are bad. That's a way to deal with them, right?" I think some of the pledges are similar to that. If you don't need or ever want to monetize your patents, you can do a pledge.

But if your business model is to protect your intellectual property and you may not have the wherewithal to compete with Comcast on a product basis, but if it is using your technology, you need your patent in order to make sure that technology is giving you the return that you need, whether you sell the invention yourself or someone else takes it.

In our scenario it's not something I think we would do, but I can see why some companies would do it.

PROF. CONLEY: Have you ever thought of taking your patents and combining them with the copyright power of something like Netflix?

MR. CAMPAGNA: Not really, but we do work with content companies. Netflix is our licensee, so we work with them, and they are an app on our DVRs and that sort of thing. I think you can do cooperative agreements with other companies that may or may not involve patents. At the end of the day, that is one reason we have that relationship with Netflix on the product side, but we also have it because they are a patent licensee, so we are able to do this without having to worry about patents being an issue.

³ Jordan Golson Gear, [Tesla Just Gave All Its Patents Away to Competitors](#), Wired.com (June 12, 2014, 02:35 PM).

Traditionally, the way companies have dealt with this issue is by having cross-licenses between companies with good patent portfolios, and they have peace, and then they can go forward and develop technology together. That's the way that we would envision doing that.

PROF. CONLEY: Okay, great.

Now I'd like to open the floor to any questions that our audience has. We have a very diverse panel of experts here representing a variety of viewpoints. I have a couple more questions, but we really encourage you to ask questions, if there are any that are pressing.

AUDIENCE [Kenneth Ng, Partner, Chang Tsi & Partners]: I'd like to hear your ideas. I used to work in-house and I managed a portfolio. What sort of software do you use and how does that software interact with you day-to-day? Is it an app; can you use your phone that's in the digital interface versus using your phone as a telephone? Do you use other apps in the day-to-day management of your team?

PROF. CONLEY: Gary, why don't take that one?

MR. FRIEDLANDER: That's an easy one for me to answer. Up until recently I was pretty much a one-man shop. I had all of our global IP.

AUDIENCE [Mr. Ng]: Well, you have outside counsel.

MR. FRIEDLANDER: We do have outside counsel and they manage the portfolio for us.

One of the ways that I keep track of all that stuff is we have a dedicated eRoom with them. We came up with an automated process for me to get emails every time there is some action that's required or something that needs a signature.

Every so often we will do brainstorming sessions with our business units to drum up invention disclosures. I originally came up with an invention form that was three or four pages. We got it down to one page, the bare essentials, just to get the conversation going and to be able to make it easy for them to get the disclosures going. We set it up so they send it to an email address that automatically shoots it to outside counsel with a copy to me, so we can immediately get the conversation going. I then know what's going on, I can intervene as needed, and we can schedule the initial calls. That's how I'm handling it at the moment.

AUDIENCE [Mr. Ng]: Does the email feed into a database or does that have to be manually input into the database.

MR. FRIEDLANDER: They are about to make some additional changes to it. I believe it hooks into their docket system at the law firm.

AUDIENCE [Mr. Ng]: So the eRoom is part of the law firm's product?

MR. FRIEDLANDER: It's part of the law firm's product.

AUDIENCE [Mr. Ng]: You don't have your own product?

MR. FRIEDLANDER: No.

PROF. CONLEY: Do you do the same thing at TiVo, Mark?

MR. CAMPAGNA: We do it a little differently. We have something called Lecorpio. I don't know if you're familiar with that. It's a database that has all of our patent information in it. We have 5000 patents. They are all different families. We have all the prosecution information in there. The law firm has an interface to it and they update it on the prosecution side.

But we also use it for additional things. On the licensing side, we use it to mine all of those patents and organize them in different ways.

We have applied a tagging process where we go through and we look at every patent and we have a tagging tree structure of different technologies. For DVR that would be a high-level tag and then there are subfunctions under DVR. Every patent can have two or three tags associated with it. So if I am going to license by patents in the Over-the-Top (OTT) space, I would look at the OTT tags and the sub-tags that might be relevant to the target that we're looking at.

We put all that information into Lecorpio, so I know how it has been tagged; I know if there are any patent assertion dockets that have been created that involve that patent and who the targets are that the patent has been shown to. We keep all that information in there.

Going forward, if I am going to go talk to Disney and then the next week I am going to talk to Discovery, they are probably going to have very similar patent portfolios that are relevant to them in the OTT space, so we will look at what we have done before and see how that might be relevant to a similar target.

MS. FREDERICKS: I don't do any patents, but I do trademark, copyright, domain names, licensing, and all of that we do using docketing software. We don't use what you have. We use the Dennemeyer Information Asset Management System (DIAMS).

I was hired twenty-some years ago to bring the trademark portfolio back in-house. It used to be managed by outside counsel. We manage it in-house now with the help of a network of very good and talented global counsel. Our China counsel is sitting right over there — Hi, Ken. We do all the U.S. filings in-house and our global counsel handles all of the global filings.

We manage the tracking software. It is manually input, but once it's there it's there. We are in the process of upgrading to a newer, better cloud system so that there will be some interface with our outside counsel and we won't have to manually get the reports and feed them to them. There will be some more interface.

We are much smaller than you. We have about 1000 trademarks. We have far more copyrights and licenses and some other things like that, but for just trademarks we have about 1000 registrations. So we are huge for a nonprofit and we are really small compared to a consumer products company.

PROF. CONLEY: Those are three really different perspectives — big patent portfolio, small patent portfolio, big trademark portfolio.

AUDIENCE [Jonathan Jennings, Partner, Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP]: Can I ask a follow-up question? I want to find out about your special ops training. I was wondering about the model where you are going to try to control not crossing borders and the like.

One concern that jumps out at me is: can you really control something like that and are you asking for a problem to happen, as opposed to a different model where you accept that there is going to be some kind of an exchange? I just wonder if you've thought about that.

MR. KRAMES: Here's the thing about automation and here's the thing about control.

First of all, we were talking about internal controls. Controls aren't designed to provide absolute assurance because there's no such thing. It's *reasonable* assurance.

In addition, the use of automation does not by any means take the place of doing business the same way that you are currently doing business. Automation simply provides a tool that allows you do your work quickly and efficiently as opposed to manually. You are doing the exact same thing. Basically, if we are taking data, a team would have no more right to extract data manually across the border or push data out manually than it would to do it in an automated way. It's done exactly the same way. So it doesn't absolve people from following the appropriate rules and regulations and laws and so on and so forth. It just facilitates that.

Again, on the "winning hearts and minds" piece, just a very quick analogy. We are trying to make our partners comfortable signing audit opinions and other such opinions for our clients.

They ask, "How can I rely on this? How on Earth can I get my head around this, because I'm signing my name, and am I going to put the firm at risk?"

I respond, "Do you use Excel?"

They say, "Yes, we use Excel."

I ask, "What was it like when Excel first came to the firm?"

They laugh, because back then they were associates or senior associates. They say, "Oh, it was easy. The partners made us tick and tie and actually put little checkmarks and do it manually on top of it."

I ask, "And then what happened? Do you still do that?"

They say, "No, we don't do that anymore because we realized it was literally just a tool or a means to help us work more efficiently."

I say, "That's pretty much what we're talking about here."

It does increase risk because it facilitates the ability to do something faster and more frequently, but it doesn't absolve anyone from doing the job that they have to do anyway when following appropriate policy.

AUDIENCE [Mr. Jennings]: Thanks

PROF. CONLEY: We have another question.

AUDIENCE [Gareth Dickson, Taylor Vinters]: I'm interested in the use of technology for dispute resolution. You talked a lot about portfolio management and being able to ensure compliance across a broad range of people. Do you see opportunities for using technology to assist in dispute resolution either by predicting the outcome of a particular dispute or, particularly in the domain name space, by automating the creation of complaints? Because the UDRP is very formulaic, in that you only have a certain number of arguments that you could really run, and because most systems can detect content of a website, you can quite easily automate what your UDRP complaint is going to say. Is that something that is possible across other disciplines, or are we really only talking about developments in "business as usual" where technology already handles the issue anyway?

MR. KRAMES: I haven't seen anything like that because that's not the area where I work. But I can tell you conceptually it's not only possible; it probably exists in some way, shape, or form right now through the use of artificial intelligence and machine learning.

MR. CAMPAGNA: We have talked to IBM. They are using Watson for all sorts of different things.

One of the things they are using it for that is relevant to us potentially is using it to map patents. Instead of having to do it manually, it can ingest our entire portfolio and then look at the world. We can give it some specific targets and say, "This is what they do so find out everything you can about them and based on that tell me which of my patents you think are most applicable to them." It can be used in those sorts of ways. I haven't seen it. I have heard that it can do this, but I have never actually seen it do it. But I think, like you said, the technology is here, and it is only going to improve. So that's one way you might be able to do it.

Another possibility is to do financial modeling. Some of the accounting firms have talked to us about better ways to estimate damages and make it more generally applicable to different targets and be able to calculate that with more certainty. There are a lot of factors that go into damages analysis. By using a template you can plug in some basic information and have a better idea and have an expectation of what your revenue might be associated with them.

PROF. CONLEY: We have another question.

AUDIENCE [Mr. Rauch]: Just a comment. I haven't used it, but there is a website that has artificial intelligence to assist in fighting parking tickets. Apparently, you ask a few questions and it does all the rest.

PROF. CONLEY: That sounds like a reasonable invention. [Laughter]

AUDIENCE [Mr. Rauch]: The other comment I have is about the Singapore strategy. If you want to do that, you do need a U.S. foreign filing license, but all you need to do is file a provisional application and you will get a foreign filing license in about two weeks. You don't need to do a PCT filing in Singapore; presumably, it's a regular national filing. You can or cannot claim your priority back to the United States. You'll have your foreign filing license and if they finish their examination within six months you are well within the one-year provisional, and you can then make your decision about whether you are going to file or not, whether you want to spend the money on a PCT, all sorts of things. There is a [Patent Prosecution Highway](#) agreement between Singapore and the United States, so that will shoot you around the world.

PROF. CONLEY: Any other questions?

[No response]

I am aware that the bar opened ten minutes ago. Unless there are any other pressing comments or questions from my panelists or from the audience, I am going to exercise my moderator's prerogative and conclude this session.

Any objections?

AUDIENCE: Seconded.

PROF. CONLEY: Thank you very much, Mark, Gary, Jomarie, and Jay.