

THE GOOD, THE BAD, AND THE UGLY

OUTLOOK FOR THE U.S. PATENT SYSTEM



Kathleen M. O'Malley
Circuit Judge, CAFC



Eddie Lazarus
Chief Legal Officer at Sonos

INNOVATION
ALLIANCE



Jonathan M. Barnett
Professor of Law at the University
of Southern California



Gene Quinn
President & CEO
IPWatchdog, Inc.

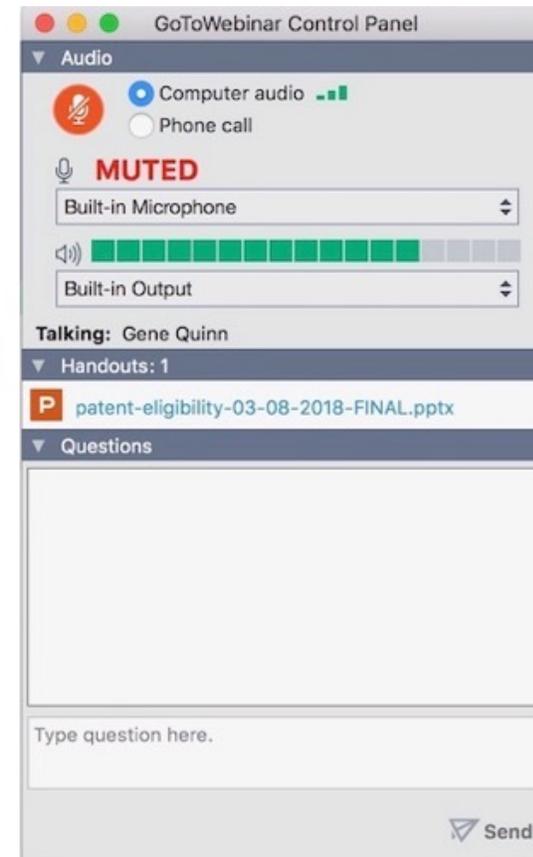
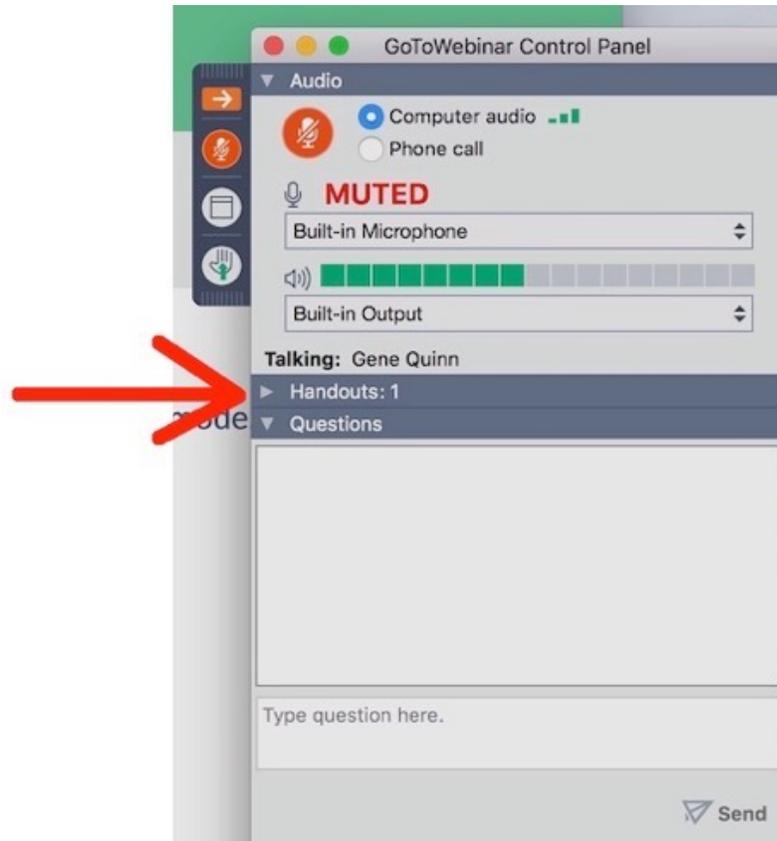


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Accessing the Handouts

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About the Innovation Alliance



Strong patent protections have been a driving force behind U.S. economic growth and job creation for more than 200 years. They provide a critical incentive for innovation and allow inventors and entrepreneurs to raise the venture capital they need to conduct research and bring their technological and scientific breakthroughs to market.

As the result of a series of patent-weakening Supreme Court decisions, legislative changes and administrative measures over the last decade, the U.S. patent system is no longer considered the global gold standard for intellectual property rights. And while the U.S. has been curtailing patent protections, our foreign competitors, including China, have been moving to strengthen those protections and promote innovation in their countries.

In 2018, the U.S. fell to 12th place in the U.S. Chamber of Commerce's international ranking of patent system strength, falling behind countries such as South Korea and Spain. The U.S. also fell out of the top 10 of Bloomberg's international innovation index for the first time. Meanwhile, startup activity in the U.S. has slumped and venture capital investment has increasingly moved overseas.

The Innovation Alliance supports legislation and policies that would help put a stop to this decline and ensure that patent rights are protected as a fundamental underpinning of our innovation economy.



Kathleen M. O'Malley was appointed to the U.S. Court of Appeals for the Federal Circuit by President Obama in 2010. Prior to her elevation to the Federal Circuit, Judge O'Malley was appointed to the U. S. District Court for the Northern District of Ohio by President Clinton in 1994.

Prior to her appointment to the bench, Judge O'Malley served as First Assistant Attorney General, Chief of Staff, and Chief Counsel to the Attorney General for the State of Ohio, Lee Fisher. Judge O'Malley was also in private practice with Jones Day and Porter, Wright, Morris & Arthur, practicing complex litigation. Judge O'Malley began her legal career as a law clerk to the Hon. Nathaniel R. Jones, U.S. Court of Appeals for the Sixth Circuit.

She received her J.D. from Case Western Reserve University School of Law in 1982, summa cum laude and Order of the Coif, her A.B. from Kenyon College in 1979, magna cum laude and Phi Beta Kappa, and also received an honorary LL.D. from Kenyon in 1995.

Among other awards for her service on the bench, Judge O'Malley has been awarded the Sedona Conference Lifetime Achievement Award, the New Jersey Intellectual Property Law Association Jefferson Medal, the New York Intellectual Property Law Association Outstanding Public Service Award, and the Intellectual Property Owners Association's 2020 Distinguished IP Professional Award and was named to the Globe Business Media Group's IP Hall of Fame. Judge O'Malley is a member of four American Inns of Court chapters, including the Kathleen M. O'Malley Inn of Court in Cleveland, Ohio, named in her honor.



Eddie Lazarus serves as the Chief Legal Officer at Sonos. He leads the company's legal, corporate governance, SEC reporting, government affairs, regulatory and compliance activities.

Eddie joined Sonos after a distinguished career as an attorney, including most recently as General Counsel and Chief Strategy Officer for Tribune Media Company from 2013 to 2019. Lazarus served as the Chief of Staff to the Chairman of the Federal Communications Commission (FCC) from June 2009 to Feb. 2012. At the FCC, he oversaw policy development and implementation, strategic planning, communications, legislative and intergovernmental affairs, and agency management.

Before working at the FCC, Eddie was a partner and member of the Management Committee at the law firm Akin Gump Strauss Hauer & Feld, where he chaired the firm's national litigation steering committee. Prior to entering private practice, Eddie served as a federal prosecutor in Los Angeles. In addition to his career as an attorney, Eddie is the author of two highly acclaimed books: "Black Hills/White Justice: The Sioux Nation Versus the United States, 1775 to the Present" and "Closed Chambers: The Rise, Fall, and Future of the Modern Supreme Court."



Jonathan M. Barnett is the Torrey H. Webb Professor of Law at the Gould School of Law at the University of Southern California, and director of the law school's Media, Entertainment and Technology Law Program.

Johnathan is the author of *Innovators, Firms, and Markets: The Organizational Logic of Intellectual Property* (Oxford University Press 2021) and has published on intellectual property and antitrust topics in leading scholarly journals.

Prior to academia, Barnett practiced corporate law at Cleary Gottlieb in New York, specializing in private equity and mergers and acquisitions transactions.



Gene Quinn is a patent attorney and a leading commentator on patent law and innovation policy. Mr. Quinn is the Founder of IPWatchdog.com, which he started in 1999, and currently serves as President & CEO. According to IAM Magazine, Mr. Quinn “has reshaped the IP debate in the United States in a way that has forced policy makers to carefully consider the macroeconomic affects of IP law and its potential to drive innovation and economic activity.”

Mr. Quinn has twice been named one of the top 50 most influential people in IP by *Managing IP Magazine*. From 2017 to 2021, Mr. Quinn has been recognized by *IAM Magazine* as one of the top IP strategists in the world. In 2021 he was recognized by *IAM* in their inaugural Strategy 300 Global Leaders list.

Regarded as an expert on software patentability and U.S. patent procedure, Mr. Quinn’s particular specialty is in the area of strategic patent consultancy, portfolio building and patent strategy.

Initial Thoughts

Without innovation, nothing of consequence happens, or matters, in any technology sector. And without strong patents, much of that innovation will never happen.

The innovation we most want for the benefit of society is paradigm-shifting, disruptive innovation that leaps forward. These forward leaps lead to the formation of new start-up companies and frequently to the birth of entirely new industries, creating enormous job growth and economic prosperity as well as social and societal advancement.

Unfortunately, innovation is being hampered. Inventors are being infringed. Patent rights are being weakened and risk-taking innovators are being cut off from the resources necessary to flourish. How and why is this happening?





Agenda

In addition to taking questions from the audience, in this wide-ranging conversation, the panel will tackle the following critical issues facing the patent system:

- The role of efficient infringement and lack of injunctive relief.
- How the Biden Administration will likely view SEPs, patent licensing, and antitrust enforcement.
- The importance of the next USPTO Director and the role of the PTAB moving forward.
- Patent Reform: Will anything get done on patent eligibility? What are the prospects for the STRONGER Patent Act?
- The TRIPS Waiver: Will the waiver really happen, and what long-term damage to IP rights could be expected?



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FEEDBACK**

Thank you for joining
today's program!

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