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## Are You Bearish or Bullish on the Patent Market?



**GENE QUINN**

AUGUST 25, 2022, 01:45 PM 5



Are you bullish or bearish on the patent market as we close out 2022 and move into Q1 of 2023? That is the question I recently asked a distinguished panel of intellectual property business leaders and monetization experts.

For the most part, those industry insiders who responded are bullish, although several distinguish patents and the licensing of technology and innovation. Indeed, if I were to answer my own question, I would say that given the Supreme Court's refusal to address

the obvious errors of the Federal Circuit relative to patent eligibility it is extremely difficult, if not impossible, to be anything other than bearish on patents as a meaningful asset class — or at least an asset class that will compensate innovators and investors for the full measure of their contributions. It is just too easy in the wake of *American Axle* for a judge or a panel to find that any invention fundamentally leverages a natural law at its core, which should mean that such innovations are patent ineligible. While such absurdity may not happen in any particular case, it is impossible to discount the possibility of such ridiculousness.

Of course, innovations are made by those who take risks and that largely means smaller, more nimble companies. So a mix of reasonably high quality patent filings together with carefully

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Without further ado, here are the responses we received. Each of the experts surveyed will participate in [IPWatchdog LIVE2022](#), which will take place from September 11-13, at the Renaissance Dallas Richardson hotel in Richardson, Texas.



The banner for PTAB MASTERS 2024 features a dark red background. On the left is the Carmichael IP, PLLC logo with the tagline "#1 IPR Firm for Patent Owners". In the center, the text "PTAB MASTERS 2024" is written in large white letters, with "IN-PERSON | IPWATCHDOG MASTERS™ PROGRAM" below it. On the right is the Wolf Greenfield logo with "INTELLECTUAL PROPERTY LAW" underneath. Below the text is a row of six headshots of speakers: Hon. Paul R. Michel, Jim Carmichael, Chief Judge Boalick, Vice-Chief Tierney, Vice-Chief Haapala, and Scott Mckedown. To the left of the headshots is an image of a gavel on a wooden surface with a nameplate that says "PATENT LAW" and a small IPWatchdog logo. At the bottom, a dark blue bar contains the text "JANUARY 29-30, 2024 | @ IPWATCHDOG STUDIOS" and a red button that says "REGISTER".

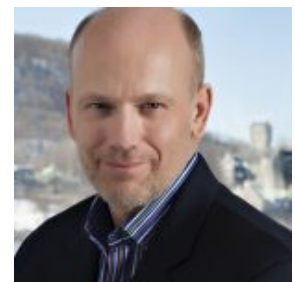
I'm bullish because I think that corporate patent sales will pick up as the economy slows. That's one way that companies like to generate cash in a down economy because their patent assets are costing them money. Most operating companies don't assert patents themselves. They use them purely defensively and they've got a ton of them in technologies that they don't need.



Marc Booth

*Marc Booth is Chief IP Officer for Acacia Research Corporation. He joined Acacia in 2006 and has held a number of senior management roles. He has been instrumental in Acacia Research Corporation's acquisition and monetization of hundreds of patent portfolios. He will speak on [The Future of Monetization](#), on Sunday, September 11, at IPWatchdog LIVE2022.*

I'd say neither. There are forces driving the market up (mostly investments in the asset class) while others are driving it down (*Fintiv* rule changed, WSDT rotating judges, etc.), so I see this as a neutral in the balance for the foreseeable future. If you really need me to take a stance, I'd say slightly bearish since the latter are new while the former have been here for a while.

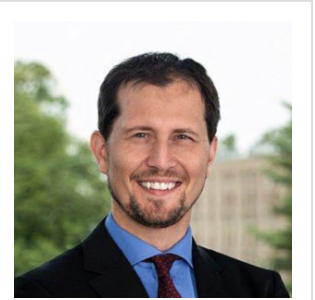


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*Intellectual Assets Management (IAM) has repeatedly recognized him as one of the World's Leading Intellectual Property Strategists. He will speak on The Future of Monetization, on Sunday, September 11, at IPWatchdog LIVE2022.*

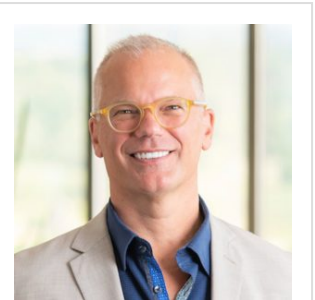
I am bullish. The pendulum is still far to one side, but momentum is building to push it back to the middle.

*Brad Close is Executive Vice President of Licensing and Transactions at Transpacific IP Group Limited. He is primarily responsible for transacting large patent deals and identifying monetization opportunities. He will speak on IP Transactions: Getting the Deal Done, on Tuesday, September 13, at IPWatchdog LIVE2022.*



*Brad Close*

WARF is the designated patent organization for the University of Wisconsin-Madison and the Morgridge Institute for Research, a private research institute affiliated with UW-Madison. We're always bullish on the outstanding research coming out of the brilliant minds on our campus. As long as government funding agencies and private sector investors continue to recognize the dual importance of basic research and robust intellectual property protections, WARF has no doubt that we can enable UW-Madison to solve the world's problems well into the future.



*Erik Iverson*

*Erik Iverson is Chief Executive Officer of the Wisconsin Alumni Research Foundation (WARF). Iverson has over 20 years of executive experience leading organizations and programs committed to entrepreneurial efforts that positively impact people worldwide. Prior to joining WARF, he served as a lead executive at the Infectious Disease Research Institute (IDRI), attorney at the Bill & Melinda Gates Foundation and within the law firm of Perkins Coie. He will speak on Monday, September 12, on Technology Transfer During the Biden Administration at IPWatchdog LIVE2022.*

Going into 2023. I am bullish about patents for several reasons. First, the economic climate of

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about patents, as I am seeing increasingly more and more startups that leverage their patent portfolio for debt and even for equity funding, with different funds and vehicles showing up in the market that allow that type of monetization. I am also seeing more litigation funding opportunities for startups to actually enforce their patents, which adds to the bullish sentiment.



*Efrat Kasznik*

*Efrat Kasznik is president of Foresight Valuation Group, a Silicon-Valley IP consulting firm focused on assisting companies with valuing and managing their innovation. She is a Lecturer at the Stanford Graduate School of Business, and is a frequent speaker and author on topics related to IP valuation and strategy. She will speak on How Startups Can Better Leverage IP, on Monday, September 12 at IPWatchdog LIVE 2022.*

The difficulty litigating patents does not affect the majority of independent inventors. In today's marketplace, all that is needed to license a consumer product is a well-written provisional patent application.



*Stephen Key*

*Stephen Key is the world's leading expert on licensing consumer product ideas. In addition to being a best selling innovation author on books for serial inventors, entrepreneurs and startups, in 2018-2019 Key served as an American Association for the Advancement of Science-Lemelson Invention Ambassador.*

I am bearish on the patent market, but bullish on the technology transfer market. In the U.S., the current administration continues to demonstrate that it supports science and research but does not understand the strong and necessary link between technology and intellectual property to effectuate economic impact and, in turn, global innovation competitiveness. While U.S. legislators just passed the largest investment in research and development that we have seen in decades, the current administration also continues to make baffling moves such as the recent TRIPS Waiver on COVID-19 patents and provision of support for compulsory licensing and a



*Ian McClure*

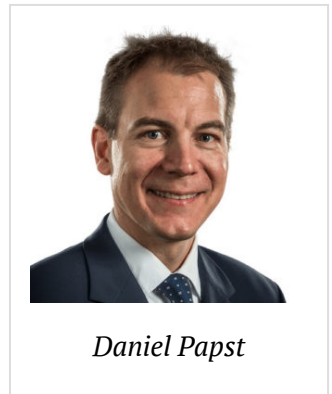
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countries have been doing for years. This is a boon for research impact, but again the reliance of this process on strong IP rights – to do it successfully and to protect U.S. funded research discoveries in order to secure global competitiveness – can't be understated.

*Ian McClure is Associate Vice President for Research, Innovation and Economic Impact and Executive Director, UK Innovate at the University of Kentucky (UK). He is also Chair of AUTM and an advisory board member for the Oak Ridge Innovation Institute and Launch Blue. He will speak on How Startups Can Better Leverage IP, on Monday, September 12 at IPWatchdog LIVE 2022.*

Totally bullish – we saw and are in the process of acquiring – some good stuff.

*Daniel Papst is the Managing Director and Co-Owner of Papst Licensing GmbH & Co., a licensing company that monetizes national and international patents. Papst manages and supervises patent portfolios to be monetized, drafts and monitors license agreements, and monitors the correct accounting and payment of license fees. He will speak on IP Transactions: Getting the Deal Done, on Tuesday, September 13, at IPWatchdog LIVE2022.*



Daniel Papst

*Image Courtesy of DepositPhotos  
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**GENE QUINN**

Gene Quinn is a patent attorney and a leading commentator on patent law and innovation policy. Mr. Quinn has twice been named one of the top 50 most influential people [...[see more](#)].

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Model 101 doesn't know the difference between bullish and bearish. Spends all his time trashing patents in the US, then says he's bullish about patents? Does not compute.



**bart**

August 27, 2022 03:38 am

Stephen Key could not be more wrong.

*"The difficulty litigating patents does not affect the majority of independent inventors."*

Perhaps, but the difficulty litigating patents affects *100% of those independent inventors **who wish or need to actually enforce their patent rights.***

*"In today's marketplace, all that is needed to license a consumer product is a well-written provisional patent application."*

And such licensees would be fools. Any company of value who would pay a considerable royalty would first properly vet the patent prior to paying any license, and only after it is received.

A provisional patent application provides no guarantee of anything. Likewise with a non-provisional application. And even with a granted patent — it provides nothing related to an inventor's ability to "license a consumer product", as Mr. Key suggests. A patent is an *exclusionary right*. It is a right to *exclude others* from producing your invention. It is NOT a right to license a consumer product.

It is unbelievable that Stephen Key continues to spread false information, which does

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