

# TRANSCRIPT

*DISCLAIMER: This computer-generated transcript may contain inaccuracies and errors.*

## **Public Hearing on the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge**

**April 29, 2025**

### **USPTO**

1 "Clara Barton Auditorium" (3802018048)

00:01:00.000 --> 00:01:26.130

Okay, I think it's time to get started. Can everyone hear me? Those online, can you just give me a thumbs up? Great. Thank you.

2 "Clara Barton Auditorium" (3802018048)

00:01:26.130 --> 00:01:42.270

Okay, let's get started. Just with a quick tech check.

3 "Clara Barton Auditorium" (3802018048)

00:01:42.270 --> 00:02:01.230

Is everything working on the AV side? Great. Thank you. Alright, good morning, everyone. I'd like to welcome you to today's public hearing on the World Intellectual property Organization or WIPO, treaty on intellectual property genetic resources, and associated traditional knowledge.

4 "Clara Barton Auditorium" (3802018048)

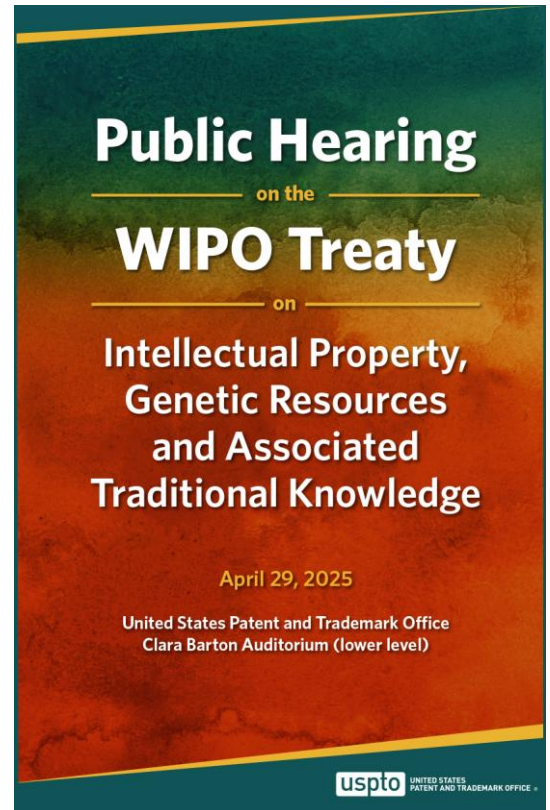
00:02:01.230 --> 00:02:18.510

My name is Michael Buckler. I'm a patent attorney with the Office of Policy and International Affairs or OPIA at the US Patent and Trademark office or USPTO, lots of acronyms here. And I was a member of the US delegation at the diplomatic conference where WIPO member states adopted the treaty.

5 "Clara Barton Auditorium" (3802018048)

00:02:18.510 --> 00:02:36.390

I'm joined today by Dominic Keating OPIA's deputy chief Policy Officer for Education and international engagement. Mr. Keating served as head of the US delegation at the diplomatic



conference where whiteboard member states adopted the treaty. Dom, would you like to say a few words at this point?

6 "Clara Barton Auditorium" (3802018048)

00:02:36.390 --> 00:02:53.670

Sure, thank you Mike. I'd like to express my appreciation to you for organizing today's discussion this hearing. I'd like to also express my appreciation to all the people who are here in the room, as well as those who are with us online. I think today's discussion is.

7 "Clara Barton Auditorium" (3802018048)

00:02:53.670 --> 00:03:09.330

Very important, focusing on the question of whether or not the United States should ratify the WIPO treaty on intellectual property genetic resources and associated traditional knowledge, and your views are very important to us, so we look forward to hearing them all today.

8 "Clara Barton Auditorium" (3802018048)

00:03:09.330 --> 00:03:29.330

Back to you Mike. Thank you, Dom. Today we are also joined by approximately 40 participants, well, 40 participants signed up to come here in person. If you look around the room, we don't quite have 40, and 85 participants registered online. Six people are providing testimony.

9 "Clara Barton Auditorium" (3802018048)

00:03:29.330 --> 00:03:52.670

Today's hearing, two in person and four online. They are identified on the hearing agenda, which is available in this room in paper form and also online on USPTO's event page for the hearing. We have posted a link to that event page in the chat box for online participants. During the hearing phase or sorry, during the testimony phase of the hearing, we will do our best to quickly transition between online and in person.

10 "Clara Barton Auditorium" (3802018048)

00:03:52.670 --> 00:04:16.380

But please bear with us if it takes a few moments to bring about those transitions or to resolve technical issues that arise. Before I proceed, I want to recognize and thank the professionals here at USPTO who are working behind the scenes today. They make it possible for USPTO to host hybrid hearings like this one and we appreciate their logistical and technical expertise.

11 "Clara Barton Auditorium" (3802018048)

00:04:16.380 --> 00:04:36.380

In terms of timing, we have reserved today and tomorrow if needed for the hearing. However, given the number of testifiers the hearing will probably adjourn sometime this morning, we ask for everyone's cooperation with keeping the hearing on track. Today's public hearing was announced in a federal registered notice that published on January.

12 "Clara Barton Auditorium" (3802018048)

00:04:36.380 --> 00:05:05.989

17th 2025. The hearing is 2nd phase of the USPTO's outreach to the public on whether the United States should sign and implement the treaty. The 1st phase was a written comment period that ended on 18 March 2025. During that period, the USPTO received 30 written comments, all of which are available on the regulations.gov website. In addition to public outreach, the USPTO conducted a tribal consultation on the treaty, which consisted of virtual webinars and.

13 "Clara Barton Auditorium" (3802018048)

00:05:05.989 --> 00:05:24.509

The request for written comments. The consultations sought input from federally recognized tribal nations, state recognized tribes, other tribes, and native Hawaiians and other Pacific islanders. At this point, you might be wondering about USPTO's connection to the treaty and WIPO matters in general.

14 "Clara Barton Auditorium" (3802018048)

00:05:24.509 --> 00:05:43.379

I want to take a moment to elaborate on that. In addition to granting US patents and registering US trademarks, the USPTO advises the president of the United States, the Secretary of commerce, and US government agencies on intellectual property policy, protection and enforcement in the US and around the world.

15 "Clara Barton Auditorium" (3802018048)

00:05:43.379 --> 00:06:03.379

In this role, the USPTO is responsible for coordinating the development of US positions at wipo, and for leading the US delegation at gatherings of WIPO bodies. WIPO is a specialized United Nations agency based in Geneva Switzerland that focuses on intellectual property. The treaty on intellectual property genetic resources and associate.

16 "Clara Barton Auditorium" (3802018048)

00:06:03.379 --> 00:06:31.669

Traditional knowledge arose from the work of a wipo body, specifically the intergovernmental committee on intellectual property and genetic resources, traditional knowledge and folklaw or the IGC for short. I would now like to provide a brief overview of the treaty. Last year wipo hosted a two week diplomatic conference at WIPO headquarters in Geneva. At the end of the conference on 24 May 2024.

17 "Clara Barton Auditorium" (3802018048)

00:06:31.669 --> 00:06:54.629

WIPO member states adopted the treaty. Article three of the treaty mandates that in certain circumstances, patent applicants disclose the origin of of a genetic resource or GR and the origin of any associated traditional knowledge or ATK provided by indigenous peoples or local communities. In particular the disclosure requirement is triggered.

18 "Clara Barton Auditorium" (3802018048)

00:06:54.629 --> 00:07:14.629

Where a claimed invention is based on a GR or ATK, which requires satisfaction of a two part test. The GR or ATK must have been necessary for the claimed invention and the claimed invention must depend on the specific properties of the GR or ATK.

19 "Clara Barton Auditorium" (3802018048)

00:07:14.629 --> 00:07:30.659

Among its 22 articles, the treaty covers several other topics, including treaty objectives, definitions, exceptions, and limitations, non retroactivity, sanctions, and remedies for non compliance, relationship with other international agreements.

20 "Clara Barton Auditorium" (3802018048)

00:07:30.659 --> 00:07:50.659

And review and potential revision of treaty text. The treaty is open for signature for one year after its adoption. The treaty will enter into force after it is ratified or seated to by 15 contracting parties. As of 5 March 2020 05:41 member states had signed the treaty and only.

21 "Clara Barton Auditorium" (3802018048)

00:07:50.659 --> 00:08:10.469

One member state, malawy, had ratified or seated to the treaty. If the treaty enters into force, its provisions will apply in any member state of wipo, that is, that is or subsequently becomes a contracting party to the treaty. If you would like additional information on the treaty, the public comment period.

22 "Clara Barton Auditorium" (3802018048)

00:08:10.469 --> 00:08:27.749

This public hearing or the Office of Policy and International Affairs, please visit the US pto's event page for this hearing. You will find that page under the dropdown menu for USPTO events at [www.uspto.gov](http://www.uspto.gov).

23 "Clara Barton Auditorium" (3802018048)

00:08:27.749 --> 00:08:47.749

Excuse me. We have also dropped a link to the page into the virtual chat. Okay, so with that, I wanna just pause briefly and ask if there be before we head into our testimony pause briefly and ask if, there are any questions from those who are in person.

24 "Clara Barton Auditorium" (3802018048)

00:08:47.749 --> 00:08:57.419

Or attending virtually.

25 "Clara Barton Auditorium" (3802018048)

00:08:57.419 --> 00:09:14.309

Okay, I don't see any. So I would now like to turn to our second agenda item. We have six people who set aside time from their busy schedules to provide their perspectives on the whiteboard treaty on intellectual property.

26 "Clara Barton Auditorium" (3802018048)

00:09:14.309 --> 00:09:31.649

Genetic resources and associated traditional knowledge, and in particular on whether the United States should sign and implement the treaty. Each of them will have about 5 min to speak. After they finish, we may ask follow up questions to clarify details in their testimonies.

27 "Clara Barton Auditorium" (3802018048)

00:09:31.649 --> 00:09:51.649

Rest assured these questions merely seek to clarify the factual record. They will not be confrontational in nature. We appreciate you testifying and we would like this hearing to be a positive experience for you. It is now time to let the testifiers share their perspectives with us, to orient hearing attendees and correct any mispron.

28 "Clara Barton Auditorium" (3802018048)

00:09:51.649 --> 00:10:23.698

On my part, I would appreciate each testifier starting with a brief introduction before proceeding with substantive testimony. Our 1st speaker is virtual. He is a professor of law at the University of Houston Law Center although he is speaking today in his personal capacity. Would our technical staff please confirm that Professor Gebru is online and ready to testify? Yes, he is ready. Okay, Professor Gebru, please proceed with your testimony.

29 "Aman Gebru" (991754752)

00:10:23.698 --> 00:10:48.419

Good morning, just checking that everybody can hear me, maybe? Thumbs up. Great. Good morning. My name is Aman Gebru. I'm an assistant professor of law at the University of Houston law center. I'm here today in my personal capacity to present my strong support for the United States signing and implementing the whiteboard treaty on intellectual property genetic resources.

30 "Aman Gebru" (991754752)

00:10:48.419 --> 00:11:08.419

And associated traditional knowledge. This treaty represents a critical advancement at the intersection of intellectual property, genetic resources and traditional knowledge by requiring patent applicants to disclose the country of origin or source of genetic resources and traditional knowledge used in their inventions.

31 "Aman Gebru" (991754752)

00:11:08.419 --> 00:11:28.419

It directly addresses this pervasive issue of biopiracy, promotes equitable benefit sharing with genetic resources and local communities. As I've noted in a Denver review publication, a significant benefit of this disclosure requirement is that it directly addresses the info.

32 "Aman Gebru" (991754752)

00:11:28.419 --> 00:11:51.229

Information is symmetry in a patent application process. The patent applicant often has more detailed information or knowledge about the origins of their invention than a patent examiner, and this enables a strategic withholding of information. This problem is especially pronounced in inventions relying on genetic resources or traditional knowledge.

33 "Aman Gebru" (991754752)

00:11:51.229 --> 00:12:11.419

Where applicants frequently fail to disclose their true reliance consequently obtaining broader patterns or undeserved pattern rights. E.g., pattern patent rights or issues such as the name tree pesticide case illustrate how withholding crucial origin information can lead to.

34 "Aman Gebru" (991754752)

00:12:11.419 --> 00:12:31.019

Extensive legal and social conflict. Introducing an explicit requirement compelling applicants to disclose their reliance on traditional knowledge or genetic resources would significantly mitigate these issues. Ensuring patent rights are appropriately scoped or truly innovative.

35 "Aman Gebru" (991754752)

00:12:31.019 --> 00:12:51.019

Current US hazard law lacks explicit requirement for disclosing the origin of genetic resources and associated traditional knowledge. Interpreting the treaty's mandatory disclosure provision would require amending section 35 USC, section 01:12 of 35 USC to.

36 "Aman Gebru" (991754752)

00:12:51.019 --> 00:13:13.339

Explicitly mandate such disclosure. This reform is neither significantly disruptive nor burdensome because the patent applicant typically has obtained information that's already necessary for for for the such disclosure. Implementing this disclosure requirement aligns perfectly with the us's.

37 "Aman Gebru" (991754752)

00:13:13.339 --> 00:13:32.459

International obligations, particularly under the conventional biodiversity and the trip's agreement both of which encourage equitable benefit sharing and the prevention of biodiversity. Moreover, even absent former ratification, adopting the treaty's key provisions domestically.

38 "Aman Gebru" (991754752)

00:13:32.459 --> 00:13:52.459

Would enhance the quality and transparency of our patent system. Bolster ethical research practices and align the US patent policy with global norms. Countries such as India and Switzerland have successfully implemented similar disclosure systems within their domestic legal systems witnessing positive outcomes in.

39 "Aman Gebru" (991754752)

00:13:52.459 --> 00:14:13.469

Preventing unjustified pattern grants. Implementing the treaty in the US would also positively influence both domestic and global innovation. You would facilitate greater collaboration between researchers and indigenous communities, fostering socially responsible and sustainable innovation especially in biotechnology and pharmaceuticals.

40 "Aman Gebru" (991754752)

00:14:13.469 --> 00:14:33.469

Further source countries reaching biodiversity would likely offer greater access to their genetic resources to US based companies enhancing opportunities for American businesses. The economic impacts are equally beneficial while initially introducing modest compliance obligations.

41 "Aman Gebru" (991754752)

00:14:33.469 --> 00:14:57.379

The disclosure requirement would ultimately enhance legal certainty and reduce patent disputes, benefiting businesses, investors, and consumers alike. Ethically sourcing practices foster consumer trust and investor confidence further strengthening the US economy. In conclusion, the treaty offers the US a significant opportunity to advance.

42 "Aman Gebru" (991754752)

00:14:57.379 --> 00:15:16.075

Our patent systems integrity, foster innovation, and fulfill international commitments. I strongly urge that the US sign and ratify the treaty and integrate its provisions into our Python law. Thank you.

43 "Clara Barton Auditorium" (3802018048)

00:15:16.075 --> 00:15:36.239

One follow up question, you mentioned that US obligations, or sorry, you mentioned US obligations under the convention on biological diversity. For the purposes of clarity, is it your view that the US is a party to that multilateral agreement and therefore has obligations under it?

44 "Aman Gebru" (991754752)

00:15:36.239 --> 00:15:56.479

Thank you for, for the question. The US is not a party to the convention on biodiversity. However, the convention is signed and ratified by the overwhelming majority of, of countries in the world, and I believe the US as a leader in this.

45 "Aman Gebru" (991754752)

00:15:56.479 --> 00:16:18.979

If international order has this obligation that emanates from the consensus build around the key rights recognized under the convention. One of which is the sort of national rights that that



countries have over genetic resources within their borders, and so, the sort of the US being a leader in this.

46 "Aman Gebru" (991754752)

00:16:18.979 --> 00:16:42.079

Space I think broadly speaking, makes it if if the US continues to, to, be a leader in that space and be a country recognized for, for, for embedding international obligations that have consensus built around them. I think the US has that obligation, but it's not a specific.

47 "Aman Gebru" (991754752)

00:16:42.079 --> 00:16:49.227

Take obligation from a treaty that Daveus has signed because it's not a member yet.

48 "Clara Barton Auditorium" (3802018048)

00:16:49.227 --> 00:17:09.049

Thank you so much, for that answer. Really appreciate your time and your testimony. Dom, do you have any questions? No, not at this time. Okay, thank you, Professor Gabra. Our second speech speaker is also virtual. She is from the American seed Trade.

49 "Clara Barton Auditorium" (3802018048)

00:17:09.049 --> 00:17:25.397

Aid association or ASTA? Would our technical staff please confirm that dr. Chao is online and ready to testify? Yes, dr. Chao is online. Okay. Dr. dr. Chao, please proceed with your testimony. Good, can you all hear me?

50 "Fan-Li Chou" (1851184896)

00:17:25.397 --> 00:17:48.679

Yep, great. Thank you. Good morning. My name is dr. Fanley Chao and I'm providing my comments today on behalf of the American C Trade Association ASTA. A little bit about ASTA, it's an association that was founded in 1883 becoming one of the oldest trade associations in the United States. We have nearly 700 members that represent.

51 "Fan-Li Chou" (1851184896)

00:17:48.679 --> 00:18:07.799

As companies, universities, and researchers that are involved in C production, sea distribution, plant breeding, and the related industries in North America. 95 % of assets as active members are small businesses as defined by the small business administration.

52 "Fan-Li Chou" (1851184896)

00:18:07.799 --> 00:18:27.799

And asset membership includes approximately 85 % of all privacy companies operating in the United States. Our members research, develop, produce, and distribute all varieties of C's, including grasses, forage, flowers, vegetables, fruits, row crops.



53 "Fan-Li Chou" (1851184896)

00:18:27.799 --> 00:18:47.099

And cereals. These seeds serve as a foundation of agricultural production in the United States and around the world. The US seed industry is highly specialized and diversified, developing and selling hundreds of varieties of seeds across numerous species.

54 "Fan-Li Chou" (1851184896)

00:18:47.099 --> 00:19:07.099

In 2024 alone, the US seed sector exported 1.7 billion US dollars in seeds destined for over 100 export markets. Unlike other agricultural goods which are treated primarily for immediate use and process.

55 "Fan-Li Chou" (1851184896)

00:19:07.099 --> 00:19:34.279

Thing in food and feed, the seed sector relies on international movement of seeds for both commercial cells and as a foundational component of years long research and development pipelines. Prior to commercialization, plant breeders conduct critical functions, including crossing and genetic improvements to test drive new varieties in multiple environments before releasing them.

56 "Fan-Li Chou" (1851184896)

00:19:35.609 --> 00:19:55.609

The extensive R and D required to release new crop varieties can take as long as ten to 15 years, even with the best technologies at our disposal to shorten this process. Because of this timeline and the investment required to deliver new crop varieties to farmers and consumers, intellectual property rights play a critical.

57 "Fan-Li Chou" (1851184896)

00:19:55.609 --> 00:19:58.829

Your role in the C sector.

58 "Fan-Li Chou" (1851184896)

00:19:58.829 --> 00:20:18.829

For nearly a hundred years spanning back to the origin of the US patent plant Patent Act of 1930, the sector has a rich history of supporting the use of IPR in its various forms. We continue to support the current US domestic laws that establish the various forms of IPR for seeds.

59 "Fan-Li Chou" (1851184896)

00:20:18.829 --> 00:20:41.629

And see foresee related innovations, including through the use of plant patents, plant variety protection PVP, utility patents, and trademarks. Separately, our sector remains strongly supportive of US leadership in major international treaty negotiations to support the global alignment of IPR laws and enforcement, including.

60 "Fan-Li Chou" (1851184896)

00:20:41.629 --> 00:21:02.639

The international Union for the protection of new plant varieties upath. These conventions leading up to the UPOF 1991 convention. The international treaty and plant genetic resources for food and agriculture and the world Trade organizations trade related aspects of intellectual property rights agreement.

61 "Fan-Li Chou" (1851184896)

00:21:02.639 --> 00:21:22.639

With all of this as background, I would like to provide several observations from the C sector regarding the recent WIPO treaty on intellectual properties, genetic resource and associated traditional knowledge. The sea sector continues to support functionally IPR systems that ensured patents are not wrongfully.

62 "Fan-Li Chou" (1851184896)

00:21:22.639 --> 00:21:48.529

Or erroneously issued to applicants who are not responsible for the invention in question. That includes those inventions that involve the use of genetic resource or traditional knowledge. However, at this time we do not believe this new treaty addresses these concerns in an effective. Several of the terms and provisions within the final agreements re remain legally ambiguous.

63 "Fan-Li Chou" (1851184896)

00:21:48.529 --> 00:22:06.389

And difficult to interpret. This could create contradictions with key concepts related to IPR that already exists within domestic law and other international instruments. In the domestic context, we do not feel that becoming a party to this new agreement will strengthen.

64 "Fan-Li Chou" (1851184896)

00:22:06.389 --> 00:22:25.049

More clarify existing US rules. The IPR available in the United States is already highly regarded by the global C sectors. The United system, the US system provides a wide range of flexibility and types of protection for inventions for a limited window of time.

65 "Fan-Li Chou" (1851184896)

00:22:25.049 --> 00:22:41.369

This in exchange for disclosure and access to information above the invention, about the invention. In the international context, a number of treaties and instruments already exist to ensure that proper attribution regarding the use of plant genetic resources.

66 "Fan-Li Chou" (1851184896)

00:22:41.369 --> 00:23:01.369

Notably, the international treaty and plant genetic resources to which a United States is already a partner. We are concerned that the continuing adoption of different yet overlapping international

instruments will create a patchwork of legal requirements that delay the issuance of patent in major international marks.

67 "Fan-Li Chou" (1851184896)

00:23:01.369 --> 00:23:22.159

This could stifle innovation in the agricultural sector by increasing the cost to secure the appropriate form of IPR and the ability to operate and keep market. This is particularly true for small and medium enterprises with fewer resources to navigate the lengthy legal requirements.

68 "Fan-Li Chou" (1851184896)

00:23:22.159 --> 00:23:41.489

In conclusion, while we appreciate the negotiators desire to ensure that the sources of genetic resource and traditional knowledge are properly acknowledged. At this time, ASTA and our members are not supportive of the United States becoming a party to this agreement.

69 "Fan-Li Chou" (1851184896)

00:23:41.489 --> 00:23:56.491

We believe that there are other means to address these goals. Thank you to the US patent office for the opportunity to comment and for taking our remarks into consideration.

70 "Clara Barton Auditorium" (3802018048)

00:23:56.491 --> 00:24:21.109

Thank you very much, dr. Chao. I just have one question. At the end of your testimony, you mentioned other means to ensure that the source of genetic resources and traditional knowledge are properly acknowledged. Just for the purposes of clarity, does that statement refer back to your earlier testimony that a number of treaties and instruments already exist to ensure proper attribution regarding the.

71 "Clara Barton Auditorium" (3802018048)

00:24:21.109 --> 00:24:24.127

The use of plant genetic resources.

72 "Fan-Li Chou" (1851184896)

00:24:24.127 --> 00:24:44.419

And thanks for the question. For our industry that operates in this space, we operate in multiple countries and our companies abide by the domestic laws within those countries that are related to direct resources because the US is also party to the plant treaty. We are Our companies are also.

73 "Fan-Li Chou" (1851184896)

00:24:44.419 --> 00:24:59.047

By by the obligations outlined under those treaties. And those considerations are continuously under negotiation and the US as being parties are heavily partici participating that.

74 "Clara Barton Auditorium" (3802018048)

00:24:59.047 --> 00:25:25.338

Thank you very much. Thank you for your testimony, let's turn now to our 3rd speaker who represents the American Intellectual property Law Association or AIPLA. With our technical staff please confirm that Miss Plenn Dejoich is online and ready to testify? And I hope I got I hope I didn't butcher your name too much.

75 "Debora" (862388736)

00:25:25.338 --> 00:25:55.089

He is ready to testify. Thank you for this opportunity to present the views of the American Intellectual property Law Association, AIPLA on the whiteboard treaty. I am Debra Plendu Hovich, a lawyer with the Echott Siemens firm in Philadelphia, Pennsylvania. I'm the chair of the AIPLA genetic Resources and Traditional knowledge Task Force. The views I expressed today are those of AIPLA and not those of my firm or any.

76 "Debora" (862388736)

00:25:55.089 --> 00:26:10.109

Client. Founded in 1897, AIPLA is a voluntary national bar association with approximately 7000 members engaged in private and corporate practice, government service and academia.

77 "Debora" (862388736)

00:26:10.109 --> 00:26:25.139

Our members represent both owners and users of IP rights. AIPLA promotes a fair neutral IP system that stimulates and rewards invention creativity, and investment while ensuring fair competition.

78 "Debora" (862388736)

00:26:25.139 --> 00:26:40.979

AIPLA submitted a written response to the questions included in the federal register notice on 18 March 2025. Today's comments were also submitted in writing. We hereby provide our oral comments as time permits.

79 "Debora" (862388736)

00:26:40.979 --> 00:27:00.979

I also invite people to look at our written submission. AIPLA believes the United States should not sign and become a party to the white Boa GRTK treaty. There are several important reasons to not sign and become a party. The requirements are unclear. It would be virtually impossible to comply and.

80 "Debora" (862388736)

00:27:00.979 --> 00:27:20.979

Some instances. There are apparent conflicts of law and procedure and the burden on the patent system and patent applicants would be a measurable and undue. History shows that such requirements are impractical and cannot be met. AIPLA wishes to emphasize that any new patent disclosure requirement must be understo.

81 "Debora" (862388736)

00:27:20.979 --> 00:27:38.489

Sustainable, qualified, appropriately limited in scope, not retroactive nor incurable. Implementation of the treaty would have a negative impact on domestic and global innovation.

82 "Debora" (862388736)

00:27:38.489 --> 00:27:55.109

Early innovation requires funding, research and development of the innovation to a stage where it can be translated into a benefit to society. To incentivize such innovations generally requires meaningful pattern protection and predictable patent systems.

83 "Debora" (862388736)

00:27:55.109 --> 00:28:15.109

The current patent systems both globally and domestically already face serious challenges, including a narrowing of available innovative benefits to society. The challenges are real. E.g., research costs are high, a large percentage of innovative projects fail, others do not survive regulatory.

84 "Debora" (862388736)

00:28:15.109 --> 00:28:43.609

Approval and some do not qualify for patent protection. The overall result is that many promising innovations die early. The wipo GRTK treaty proposals for mandatory disclosure of grs and ATT origin resource will further exacerbate these risks, increase costs, and potentially diminish innovation, particularly in the fields of medical and agricultural advantage advanced.

85 "Debora" (862388736)

00:28:43.609 --> 00:29:04.549

Pen practitioners who have applications on life sciences may try to avoid filing in countries with mandatory disclosure of source or origin, of grs or ATK. If such disclosure is mandatory under the treaty without further definition of the extent of proof needed.

86 "Debora" (862388736)

00:29:04.549 --> 00:29:38.119

And the limit of source or origin, each country will choose to follow its own levels of compliance required causing great difficulties in coordinated global patenting. This may lead to foreign shopping. AIPLA members surveyed report that jurisdictions with a patent disclosure requirement should be avoided. Members report favoring jurisdictions and offices that do not have additional poorly understood patent disclosure requirements. This is at least one reason that very few patent applications are filed in source.

87 "Debora" (862388736)

00:29:38.119 --> 00:30:04.729

Switzerland directly, instead of going through the European patent office and validating in Switzerland. If the treaty is enacted in the US, the danger is that patenties may avoid patenting in the US to avoid having to disclose the source of a GR and or ATK. If a GRTK requirement cannot be understood and therefore cannot be met, it is possible the patent system would be avoid.

88 "Debora" (862388736)

00:30:04.729 --> 00:30:24.729

Put it all together, perhaps in a favor of trade secret protection. Such would deny the public the quiprocore benefits of the patent system. The decision for practitioners will increasingly be to use trade secrets or other methods of protection or to draft less valuable claims to avoid any de.

89 "Debora" (862388736)

00:30:24.729 --> 00:30:27.929

Disclosure problems.

90 "Debora" (862388736)

00:30:27.929 --> 00:30:47.929

In summary, the wipo treaty creates novel requirements for patenting that are unclear, diminish the value of patents, reduce incentives to innovate, and do not share the goals of the patent system. AIPLA believes the WIPO treaty would not benefit the US and is incompatible with the values of our IP system.

91 "Debora" (862388736)

00:30:47.929 --> 00:30:56.291

And AI PLA councils against becoming a party. Thank you.

92 "Clara Barton Auditorium" (3802018048)

00:30:56.291 --> 00:31:25.689

Thank you very, very much for your testimony, testimony miss Plenda Joewich. I don't have any follow up questions, Dom. Do you have any? Okay, thank you and let's move on to our 4th speaker, who represents the intellectual property Owners Association or IPO. What our technical staff, please confirm that mr. Todaro is online and ready to testify? Yes, he is ready to testify. Thank you. Mr. Todaro, please proceed with your testimony.

93 "John Todaro" (329204992)

00:31:25.689 --> 00:31:41.539

Thank you mr. Buckler. I'm pleased to be with you today. As you said, my name is John Todarrow. I am a US patent attorney appearing as a representative of the intellectual property Owners association, also known as IPO. On behalf of IPO and its members, thank you for the opportunity to testify and for the work of the PTO in ensuring.

94 "John Todaro" (329204992)

00:31:41.539 --> 00:32:04.829

Point that international agreements safeguard the IP rights of inventors in particular US based inventors and US based innovators. IPO is an international trade association representing a big tent of diverse companies, law firms, service providers, and individuals in all industries and fields of technology that own or are interested in IP rights. IPO membership includes over 125 companies.

95 "John Todaro" (329204992)

00:32:04.829 --> 00:32:23.669

And spans over 30 countries. Its members make vital contributions to America's economic success by developing the advances that drive exports and create jobs. All innovators assume considerable risks and rely on IP to protect investments in new technology. In the notice dated in January 2025, the PTO sought.

96 "John Todaro" (329204992)

00:32:23.669 --> 00:32:40.469

Public comments as to whether the US should adopt Wipe the WIPO treaty on IP genetic resources and associated traditional knowledge adopted by WIPO member states in May 2024. IPO opposes adoption of the treaty by the US.

97 "John Todaro" (329204992)

00:32:40.469 --> 00:33:00.469

Because it imposes unclear and burdensome disclosure requirements that may discourage applicants from filing for patent protection in the US and discourage US based innovators from pursuing research that requires the use of genetic resources. At the outset Mr. Buckler, you talked about the article three requirement, the what we call the trigger requirement which.

98 "John Todaro" (329204992)

00:33:00.469 --> 00:33:27.109

It's worth the standard for when the country of origin of genetic resources and or associated traditional knowledge needs to be disclosed. It also has article three of the treaty. The term is of course disclosures required when the claimed invention is based on genetic resources and based on its further defined as well. And you pointed that out. It's clear and there's the words in the treaty but IPO is concerned that the based on standard is subject to varying.

99 "John Todaro" (329204992)

00:33:27.109 --> 00:33:49.999

Interpretations and therefore, if adopted may lead to understate uncertainty. Further IPO strongly believes that this trigger as written does not require applicants to identify genetic resources that are used as a research tool. E.g., as a screening material during research. However, such exemptions are not articulated in the treaty leading to more uncertainty during.

100 "John Todaro" (329204992)

00:33:49.999 --> 00:34:11.569

In prosecution around the world. Another important issue to innovative companies is the lack of clarity regarding the scope of genetic resources implicated by the treaty. IPO recognizes the agreed



footnote number one in the treaty that appears to exclude human genetic resources from disclosure and urges the US to maintain this interpretation of the treaty. Nonetheless, to the extent.

101 "John Todaro" (329204992)

00:34:11.569 --> 00:34:41.689

That the treaty includes both non human genetic resources and traditional knowledge associated there with, it ambiguously expands the scope of the disclosure requirement leading to uncertainty. Traditional knowledge issues are currently being debated in different intergovernmental committee meetings and including them within the treaty subject matter only adds more uncertainty for patent filers. IPO also opposes adoption of the treaty undergrounds that what is known as digital sequence information or DSI could prematurely be included in the treaty.

102 "John Todaro" (329204992)

00:34:41.689 --> 00:35:03.619

As part of a disclosure requirement. Identifying the source or origin of a DSI could prove even more difficult than actual generic resources because public databases from which DSI is obtained have not historically required or included such information. Additionally DSI may represent information that is obtained or discovered much later in time than genetic resources from which.

103 "John Todaro" (329204992)

00:35:03.619 --> 00:35:21.689

Was derived. IPO also IPO also notes that in the separate context of access and benefits sharing, the inclusion of DSI in the definition of genetic resources is an issue being debated in the negotiations and the pandemic prepared preparedness treaty in the World Health organization.

104 "John Todaro" (329204992)

00:35:21.689 --> 00:35:41.689

As well as ongoing negotiations in the conventions on biological diversity. IPO is also concerned that the treaty could be interpreted to countermand provisions of trips. Trips mandates that signatory countries grant patent rights for inventions that are novel, have an inventive step and industrial applicability.

105 "John Todaro" (329204992)

00:35:41.689 --> 00:36:03.169

IPO is concerned that the treaty imposes a requirement for patentability beyond or could require a, could impose a requirement for patentability beyond the scope of the trips agreement, namely the disclosure of the origin of genetic resources and or associated traditional knowledge. And IPO was also worried that some countries have already called for amendments to the patent cooperation tree.

106 "John Todaro" (329204992)

00:36:03.169 --> 00:36:24.629

With a name of moving in that direction. IPO believes that treaty will endanger the predictability of patent law. The predictability of the current IP legal framework enables and encourages innovators

to make significance investment of resources that are needed to solve some of the society's greatest challenges by supporting research and development in many fields.

107 "John Todaro" (329204992)

00:36:24.629 --> 00:36:41.579

Therefore IPO members have a strong interest in the predictable pattern law system for all industries and technologies. For these reasons IPO believes that the US becoming a party to the treaty could have a harmful impact on innovation in the US and could impact US leadership in science.

108 "John Todaro" (329204992)

00:36:41.579 --> 00:37:01.579

IPO further believes that becoming a party to the treaty would have really NO beneficial impact on US businesses consumers or the economy economy. Despite its opposition to adoption the treaty, IPO nevertheless supports the ultimate goal of equitable benefits sharing, recognizes some of the issues raised by Professor Jebruar as well.

109 "John Todaro" (329204992)

00:37:01.579 --> 00:37:22.469

However, IPO believes that this goal is unrelated to the patent system and the treaty risks undermining the undermining the innovation ecosystem while doing nothing to advance the protection and record benefit sharing of genetic resources. In conclusion, innovation driven jobs depend on high quality IP systems and effective IP.

110 "John Todaro" (329204992)

00:37:22.469 --> 00:37:37.769

Protection requires predictability for American innovators. Predictability enables investments in research and development and the sharing of information among partners. The US should not adopt the treaty because it endangers this predictability in the system that relies upon it.

111 "John Todaro" (329204992)

00:37:37.769 --> 00:37:55.414

A predictable IP system helps sustain and grow America's economy and provide new innovations to meet global challenges. On behalf of IPO, thank you again to the USPTO for its efforts to promote an IP framework that encourages innovation and creativity. Thank you.

112 "Clara Barton Auditorium" (3802018048)

00:37:55.414 --> 00:38:12.210

Thank you very much for your testimony mr. Dadarrow. I don't have any follow up questions to you dump? No, thank you Mike. Okay, let's on to our 5th testifier. She's from the Council of Innovation Promotion or C four IP.

113 "Clara Barton Auditorium" (3802018048)

00:38:12.210 --> 00:38:32.210

She is with us here in person. Miss Simpson, please come to the podium and provide your testimony. Alright. Thank you. Good morning, thank you for the opportunity to testify today. My name is Jamie Simpson and I serve as the chief policy officer.

114 "Clara Barton Auditorium" (3802018048)

00:38:32.210 --> 00:38:56.910

Council at the Council for Innovation promotion or C four IP. We are a bipartisan coalition of experts in former government officials dedicated to strengthening America's innovation ecosystem through strong s reliable and stable intellectual property rights. I'm here to express our strong opposition to the United States signing or implementing this treaty.

115 "Clara Barton Auditorium" (3802018048)

00:38:56.910 --> 00:39:14.610

This treaty proposes new mandatory disclosure requirements and patent applications when an invention is quote based on unquote genetic resources or associated traditional knowledge. While that language may sound straightforward, the implications are anything but.

116 "Clara Barton Auditorium" (3802018048)

00:39:14.610 --> 00:39:30.720

1st, the treaty represents a serious departure from established US patent law. For over two centuries, our system has balanced the needs of inventors in the public by tying patent protection to an invention's technical merit.

117 "Clara Barton Auditorium" (3802018048)

00:39:30.720 --> 00:39:50.720

And requiring disclosure of how to make and use it. By contrast, the treaty would condition patent protection on unrelated questions about the source or origin of genetic materials and traditional knowledge. That moves us from merit, from a merit based system towards one that elevates procedural form.

118 "Clara Barton Auditorium" (3802018048)

00:39:50.720 --> 00:40:08.580

Formalities. Second, the treaty would introduce significant legal uncertainty. The definition of when a treaty is based on genetic resources or traditional knowledge is vague and subjective, opening the door to second guessing and litigation.

119 "Clara Barton Auditorium" (3802018048)

00:40:08.580 --> 00:40:26.250

Patent applicants would face an untenable choice, over disclosed information creating unnecessary administrative burdens and accusations of potential misrepresentation or risk their patents being invalidated over alleged non compliance.

120 "Clara Barton Auditorium" (3802018048)

00:40:26.250 --> 00:40:41.250

In either case, uncertainty arises and investment falls, especially in high risk fields like biotechnology. 3rd, the treaty makes demands that may well be scientifically impossible.

121 "Clara Barton Auditorium" (3802018048)

00:40:41.250 --> 00:40:57.930

As C four IP states in our public comment quote, determining a definitive country of origin for many resources is like trying to trace a drop of water back to its original cloud. Yet the treaty would require exactly this.

122 "Clara Barton Auditorium" (3802018048)

00:40:57.930 --> 00:41:15.120

Moreover, because of these new disclosure requirements, innovators will be discouraged from investigating promising research that may plausibly trigger such new disclosure requirements, in favor of sticking with more established areas of inquiry.

123 "Clara Barton Auditorium" (3802018048)

00:41:15.120 --> 00:41:30.780

The resulting incentive structure would seem to hurt the exact communities that the treaty aims to support. In countries like Brazil and India, similar disclosure rules have delayed patent approvals by two to four years.

124 "Clara Barton Auditorium" (3802018048)

00:41:30.780 --> 00:41:46.740

For small businesses and startups, that kind of delay can extinguish any realistic prospect of securing funding to continue research, let alone bring a product to market. The treaty would also chill international collaboration.

125 "Clara Barton Auditorium" (3802018048)

00:41:46.740 --> 00:42:04.650

Today's groundbreaking research is often cross border, involving scientists from multiple institutions. By inserting new ownership and disclosure disputes into that process, the treaty risks creating barriers that discourage the very partnerships we should promote.

126 "Clara Barton Auditorium" (3802018048)

00:42:04.650 --> 00:42:24.650

Finally, the treaty raises serious concerns about compatibility with existing international law. It appears to conflict with the wto's trips agreement and may require changes to the patent cooperation treaty. Such disruption to settled global norms deserves far more scrutiny than this treaty.

127 "Clara Barton Auditorium" (3802018048)

00:42:24.650 --> 00:42:41.040

He has received. Regardless of one, how one views the merits of the treaty's aims of facilitating responsible equitable genetic resource sharing, this is the wrong approach. Voluntary disclosure mechanisms and bilateral agreements.

128 "Clara Barton Auditorium" (3802018048)

00:42:41.040 --> 00:43:01.040

Offer better paths forward that promote transparency without undermining incentives to engage in these areas of research. For these reasons, we respectfully urge the United States not to sign or implement this treaty. Instead we should focus on optimizing the patent system to deliver up to deliver on its core mission.

129 "Clara Barton Auditorium" (3802018048)

00:43:01.040 --> 00:43:23.370

Promoting innovation that rewards ingenuity, drives economic growth, empowers the scientific breakthroughs that improve lives everywhere. Thank you, and I welcome any questions. Well, thank you very much for your testimony, Miss Simpson. I don't have any follow up questions, Dom, do you? Okay, thank you so much.

130 "Clara Barton Auditorium" (3802018048)

00:43:23.370 --> 00:43:43.370

Our 6th and final speaker is from the US Chamber of commerce. She is with us here in person. Miss Anderson, please come to the podium and provide your testimony. Hello, my name is Kelly Anderson, and I am the vice President of international Policy at the US Chamber of Commerce's Global innovation Policy.

131 "Clara Barton Auditorium" (3802018048)

00:43:43.370 --> 00:44:00.780

Center. Thank you for the opportunity to testify today on the wipo treaty on IP genetic resources and associated traditional knowledge. I should start by saying that the chamber is so grateful for all of the uspto's work to advance more effective IP principles both at WIPO and in all of your engagement worldwide.

132 "Clara Barton Auditorium" (3802018048)

00:44:00.780 --> 00:44:20.780

The chamber believes that the multi raileral rules based system plays a critical role in better protecting American innovation and creativity. It also helps ensure that other countries are playing by the same rules. With a mandate to promote the protection of IP worldwide, Wipo's work is integral to creating global frameworks that enhance legal certainty, which in turn allow innovation increas.

133 "Clara Barton Auditorium" (3802018048)

00:44:20.780 --> 00:44:37.800

Creativity to thrive. The chamber is concerned, however, that the wipo treaty on IPGR and ATK will undermine this goal. Accordingly, the chamber does not support the US government signing the

treaty given our concerns with the text. The chamber has three high level concerns with the wipo treaty.

134 "Clara Barton Auditorium" (3802018048)

00:44:37.800 --> 00:44:57.800

1st, we believe the treaty is inconsistent with the administration's trade policy objectives. The administration's trade policy agenda emphasizes the need to protect American jobs, promote economic growth, and ensure a level playing field for US businesses. If the US signs and ratifies the treaty, it would impose disproportionate burdens on American innovators.

135 "Clara Barton Auditorium" (3802018048)

00:44:57.800 --> 00:45:20.600

In receiving America against competitive advantage to foreign competitors in countries that wouldn't have not ratified the treaty and thus would not be faced with similar obligations. Furthermore we are concerned that bad actors could exploit the treaty's provisions to challenge US patents merely on inadequate disclosure grounds, thus invalidating legitimately granted patents and gaining access to.

136 "Clara Barton Auditorium" (3802018048)

00:45:20.600 --> 00:45:38.250

To proprietary American technologies. This will jeopardize both national security and economic interests. We believe that the United States must prioritize policies that strengthen rather than weekend its innovation ecosystem. Signing and ratifying the treaty will hinder this objective.

137 "Clara Barton Auditorium" (3802018048)

00:45:38.250 --> 00:45:55.800

Second, the treaty's disclosure requirements will negatively impact US innovation. The proposed disclosure requirements that into disrupt America's innovation ecosystem by increasing the risks and costs associated with genetic resources related research and development activities.

138 "Clara Barton Auditorium" (3802018048)

00:45:55.800 --> 00:46:15.800

For instance, companies may need to invest substantial time, effort, and resources to determine the source of GR which can increase operational costs for businesses. Innovators maybe less likely to fund projects that utilize genetic resources if the regulatory environment is perceived as unpredictable or overly burdensome.

139 "Clara Barton Auditorium" (3802018048)

00:46:15.800 --> 00:46:40.160

Turn impacting the commercialization of new innovations involving genetic resources. The implementation of disclosure requirements in other countries have demonstrated the adverse effects such laws can have on the patent framework. Research shows that disclosure requirements prolong that patent approval process and raise the cost of obtaining patents. For instance, in Brazil and India, these requirements have delayed the patent application process by one to.

140 "Clara Barton Auditorium" (3802018048)

00:46:40.160 --> 00:47:00.980

Four years further aggravating the already lengthy delays faced by innovators in these markets. Finally, we believe the treaty's disclosure requirements will introduce additional uncertainty into the patent system. Disclosure requirements create new obligations in the patent system that go beyond the internationally accepted criteria of novelty, non obviousness.

141 "Clara Barton Auditorium" (3802018048)

00:47:00.980 --> 00:47:22.100

And utility. Moreover, the lack of clear guidelines on what constitutes whether an innovation is based on grs and ATK, which triggers the disclosure requirement, exacerbates this uncertainty given that country's interpretations of that provision could vary. Innovators could face legal challenges in the US and foreign jurisdictions based on varying national.

142 "Clara Barton Auditorium" (3802018048)

00:47:22.100 --> 00:47:47.640

Interpretations of the disclosure requirements further complicating their ability to protect and commercialize their inventions. Innovators and countries with existing disclosure requirements, including Brazil and India have reported that existing disclosure laws increase 3rd party litigation costs and create uncertainty about the enforceability of patents. In conclusion, the USIP framework is the foundation of America's global leadership on innovation.

143 "Clara Barton Auditorium" (3802018048)

00:47:47.640 --> 00:48:05.580

We must ensure that international agreements generally uphold these principles and support the continued growth and competitiveness of America's innovation economy. The chamber believes that signing the wipo treaty on IPGR and ATK will undermine the school. As a result, we do not support the US signing and ratifying the treaty.

144 "Clara Barton Auditorium" (3802018048)

00:48:05.580 --> 00:48:21.150

Thank you for your time today and I look forward to answering any questions you may have. Thank you very much for your testimony Miss Anderson. I don't have any follow up questions. Dom doesn't either. So that should wrap up our second agenda item. Thank you very much.

145 "Clara Barton Auditorium" (3802018048)

00:48:21.150 --> 00:48:37.590

We wanna thank all the testifiers for participating and sharing their views with us. We appreciate the comprehensive research, thought and effort that went into their testimonies. Turning to our final agenda item, the agenda item three.

146 "Clara Barton Auditorium" (3802018048)

00:48:37.590 --> 00:48:55.110



We have reached the end of today's public hearing on the wipo treaty on intellectual property genetic resources, and associate traditional knowledge. Thank you all for attending both online and in person. As indicated in the federal register notice, we, we plan to post a recording and a transcript of the hearing.

147 "Clara Barton Auditorium" (3802018048)

00:48:55.110 --> 00:49:15.110

On the OPIA section of the USPTO website at [www.uspto.gov/forward/IP-policy](http://www.uspto.gov/forward/IP-policy). Also, from now until next Tuesday, testifiers have the option of submitting supplemental materials referenced in their testimo.

148 "Clara Barton Auditorium" (3802018048)

00:49:15.110 --> 00:49:40.340

Tony. They can do so by emailing me@Michael.Buckler at uspto.gov. You can also find my email address in the federal register notice. And at this time I just wanted to break for a moment and ask if there are any well before we close, I'd just like to ask if there are any final questions from folks in the room or online.

149 "Clara Barton Auditorium" (3802018048)

00:49:44.490 --> 00:50:01.956

And there was a, there was a question in the chat, but I think I have addressed that question. I think the question was about whether the whether this meeting would be recorded, and I believe it is being recorded and I also believe the transcript will be will be made available after the hearing along with the recording.

150 "Aman Gebru" (991754752)

00:50:01.956 --> 00:50:31.985

If I may, highlight another question, I think Elizabeth Elizabeth has asked, question about vague and unclear nets of the requirements, which I think if I read the text correctly, I hear from all panelists that the disclosure requirement is vague and unclear. Can you please fill in the details as to why it is vague and unclear?

151 "Clara Barton Auditorium" (3802018048)

00:50:31.985 --> 00:50:53.670

So I guess, professor Gebru is asking us to go back to agenda item two. Would anyone like to, any of the testifiers like to speak to, their points regarding the vigeness or the lack of clarity in the treaty and.

152 "Clara Barton Auditorium" (3802018048)

00:50:53.670 --> 00:51:08.910

I don't, we don't mean to put anyone on the spots so if you're not prepared to provide those remarks now, I, I will note that four of the testifiers represent organizations that.

153 "Clara Barton Auditorium" (3802018048)

00:51:08.910 --> 00:51:28.910

Provided written comments, and those written comments are more extensive than the testimony that was provided today. There might be some clarity on your question, Professor Gabru in those written comments which are now publicly available on regulations.gov. Having said that I do want to give an opportunity for our testifiers.

154 "Clara Barton Auditorium" (3802018048)

00:51:28.910 --> 00:51:37.005

To respond to professor Gibrue if they would like to. Any takers?

155 "John Todaro" (329204992)

00:51:37.005 --> 00:51:47.705

I, I guess I can try. This is the issue of disclosure, is that right, professor? Right, so the idea that it's vague or un.

156 "Aman Gebru" (991754752)

00:51:47.705 --> 00:51:53.684

Clear. That's correct yeah and sort of I was reading a comment from or a question from the.

157 "John Todaro" (329204992)

00:51:53.684 --> 00:51:56.730

Understood.

158 "John Todaro" (329204992)

00:51:56.730 --> 00:52:14.700

Well, I think I can say IPO of course our main, one of our main concerns about this issue is predictability of patent Law and patent Law has become predictable over the years based on the standards that we have in the US, including the requirements of disclosure that we're very familiar with enablement and written description, and this is adding a whole new different.

159 "John Todaro" (329204992)

00:52:14.700 --> 00:52:30.060

And the of course under trips, those some general principles of US law are roughly equivalent to what has been developed in most countries around the world, so we're quite familiar with that and we find it predictable. So the idea of this additional disclosure requirement.

160 "John Todaro" (329204992)

00:52:30.060 --> 00:52:50.060

It Creates unpredictability there and as I think Miss Anderson spoke from the chamber of Commerce quite clearly about the issues that have been come, come up in some countries on interpretation of disclosure requirements. It just would be subject to varying inter.

161 "John Todaro" (329204992)

00:52:50.060 --> 00:53:14.927

Interpretations in all countries that are, that have signed onto the treaty and it would just in in that sense, it would increase unpredictability and add some ambiguity as to what the disclosure requirements are. I think that would be the basically the ipo's position on that.

162 "Fan-Li Chou" (1851184896)

00:53:14.927 --> 00:53:43.590

Mike, if I may, this is Family from the American City Trade Association. I think from our perspective, some of the terms, even under Article two are hard to interpret from, I think one of the commentary mentioned like how do you trace the genetic resources like tracing a drop of water back to the cloud? In the some of the definitions where the country of origin of genetic resources and the nesting of definitions within them.

163 "Fan-Li Chou" (1851184896)

00:53:43.590 --> 00:54:01.620

It seems to be pretty expansive what they were considered considered an inside two condition, meaning like existing in the country's natural environment or domestic environment. And from a plant breeder's perspective, you know, as you're improving plant varieties in different.

164 "Fan-Li Chou" (1851184896)

00:54:01.620 --> 00:54:26.838

Jurisdictions that does not necessarily de facto become an inside two situation. So I think that from that beyond the trigger, ambiguity, there's vagueness in the term list of terms and how to interpret those terms. I hope that's helpful.

165 "Clara Barton Auditorium" (3802018048)

00:54:26.838 --> 00:54:39.500

Thank you very much, and I think we have Miss Simpson would like to respond in person. Thank you.

166 "Clara Barton Auditorium" (3802018048)

00:54:39.500 --> 00:54:59.500

Why we think that some of this language is subject to multiple interpretations. And I think in particular, we're concerned that even if someone tries to comply in good faith with the requirements, it's subject to significant second guessing if the patent owner were ever to try and enforce the patent.

167 "Clara Barton Auditorium" (3802018048)

00:54:59.500 --> 00:55:19.500

And especially under our country's doctrine of inequitable conduct, even if a patent owner again tries to comply into good faith, they could be accused of misrepresentation or non compliance and even if they're ultimately cleared of those charges, the process.

168 "Clara Barton Auditorium" (3802018048)

00:55:19.500 --> 00:55:34.020

Process of going through litigation and having attorneys be deposed discovery into this issue, would very likely become a feature of any case where genetic resources or traditional knowledge.

169 "Clara Barton Auditorium" (3802018048)

00:55:34.020 --> 00:55:54.020

Is potentially implicated, even if, in the particular scientist experience and belief they didn't rely on this knowledge, they would have to essentially prove a negative. And I say this, if you look at the definition of based on, which is one of the defined terms, it kind of sets forth a material.

170 "Clara Barton Auditorium" (3802018048)

00:55:54.020 --> 00:56:14.020

Two part definition that says the genetic resources or traditional knowledge must have been necessary for the claimed invention, and 2nd part of the test is that they must have must depend on the specific properties of the genetic resources and or traditional knowledge. And I think the way that's worked.

171 "Clara Barton Auditorium" (3802018048)

00:56:14.020 --> 00:56:31.350

It's trying obviously to focus the test, but you can also see how people could disagree on whether the genetic resources were necessary for the claimed invention. Maybe the inventor could or did get the knowledge in a different way.

172 "Clara Barton Auditorium" (3802018048)

00:56:31.350 --> 00:56:51.350

And then again whether or not the invention depends on the specific properties, that's a question that can be easily subject to a lot of second guessing or litigation, and that's just one definition in this that I think our main concern is that you're asking a lot of questions that do not go to the merits of whether or not you have a new.

173 "Clara Barton Auditorium" (3802018048)

00:56:51.350 --> 00:57:11.720

And non obvious invention, and so by kind of redirecting focus to these other questions you're distracting from the core point of the patent system, which is to promote innovation, and we're worried that this is just going to discourage people from looking in these new areas because the patents they get are going to be.

174 "Clara Barton Auditorium" (3802018048)

00:57:11.720 --> 00:57:31.230

Significantly less valuable potentially. So sorry that was a bit longer than I intended, but thank you. No, thank you Miss Simpson, that was that was much appreciated. I think we've now reached the end of the hearing unless there are any more questions.

175 "Clara Barton Auditorium" (3802018048)

00:57:31.230 --> 00:57:48.930

I just wanted to once again thank everyone for coming, for especially thank the testifiers for, for providing testimony. And at this point, the public hearing is now adjourned. Thank you so much.