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**U.S. High-Tech Innovations Face Gathering ‘Perfect Storm’ Of  
Compulsory Licensing and Royalty-Free Interoperability Frameworks  
Abroad**

Princeton, NJ - December 16, 2010 – In the Washington Legal Foundation Working Paper published today and in the Global Trade & Customs Journal article to be released in February 2011, international business and regulatory attorney Lawrence Kogan identifies and describes the growing number of foreign regulatory frameworks and national standards initiatives designed to convert privately developed intellectual property-rich high technologies into virtually free-of-charge ‘public interest’ assets mostly at the expense of U.S. innovators and investors.

These articles are based on Mr. Kogan’s continuing involvement in the work of the World Intellectual Property Organization Standing Committee on the Law of Patents and a related event he recently convened on this subject while attending the body’s 15<sup>th</sup> session meetings during October 2010 in Geneva, Switzerland.

According to Mr. Kogan, “such market intervention mechanisms are grounded in United Nations human rights, technology transfer and wealth redistribution soft law declarations and ambiguous UN environmental and World Trade Organization treaty provisions that have already begun to weaken the prevailing neo-liberal exclusive private property right basis for patents, trade secrets and copyrights which has long provided an invaluable incentive for undertaking high-risk technological research & development, innovation and commercialization activities. ‘BRIC’ nations, in particular, seek to replace the current international system with a state-centric utilitarian regulatory model that guarantees to their public constituents universal access to U.S. high technologies at pre-determined concession-rate prices,” emphasizes Kogan. “However, the European Union, for economic competitiveness and trade protectionist reasons, is also involved.”

“Capital-intensive technology development and commercialization already engenders significant economic and legal risks and other uncertainties. Given the precarious state of today’s global economy, it simply defies logic and common sense that governments and civil society organizations would seek to create additional regulatory and policy risks capable of stifling discoveries and innovations that could lead to the job creation, knowledge dissemination and other downstream public benefits they desire”, Kogan believes.

“Consequently, it would be unwise for the U.S. innovator and investment communities to be lulled into a false sense of security by U.S. and foreign government assurances that these frameworks are narrowly focused and applicable only in a limited number of instances”, warns Kogan. “Much to the contrary, compulsory licensing and government procurement interoperability regimes are quite broad and expansive, applying to a number of technology industry sectors including, but not limited to, software, broadband, healthcare, energy, transportation, education, emergency and disaster management, and

defense/national security. Thus, competent counsel should be retained as soon as possible to identify possible public and private law opportunities to mitigate such risks.”

*The Institute for Trade, Standards and Sustainable Development (ITSSD) is a non-partisan non-profit legal research, analytics and educational organization that examines international law relating to trade, industry and **positive** sustainable development. The WLF article is accessible at: <http://itssd.org/KoganWP.pdf> and <http://www.wlf.org/Omisc/KoganWP.pdf> , and the GTCJ article Abstract at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1721267](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1721267) .*

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