

INTERNATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF TEACHING AND
RESEARCH IN INTELLECTUAL PROPERTY



**ATRIP
40th Annual Congress**

**Copenhagen
June 20 to June 23
2022**

Call for Paper Proposals

**IPR in Times of Crisis: Lessons Learned from the COVID-19
Pandemic**

The Covid-19 pandemic has caused and continues to cause immense human suffering. It has brought communities throughout the world to a state of prolonged health and humanitarian crisis, created unprecedented challenges for national governments and the international community, and pressure tested the national and international legal systems.

Intellectual property law has felt the heat, too: Throughout the crisis, the international community has expected innovative new vaccines and drugs and data-driven and technology-aided solutions to be the key to survival and the way back to “normality”. Also, large portions of the global community have needed to go online to be informed, educated, to work or be entertained. In this way, the rules that regulate access to and use of information have been central both as facilitators and as roadblocks as the crisis unfolded and continues to unfold.

While the global community is still at crossroads with the pandemic and its aftermath, there is no better time to take stock. How did the system of IPR fare? Did the flexibilities in the international legal framework help to provide a global response to the challenge from Covid? Did patents and trade secrets spur the technological breakthrough when most desperately needed or did IPR mainly prevent or delay the rollout of vaccines to all? Similarly for copyright: When the world needed access to teaching material, public information and culture online, how did copyright holders respond? Also, monitoring the developments in the disease and tracking individuals produce and require access to huge amounts of data. To what extent did copyright and trade secrets law control medical data, and how was control exercised? The pandemic resulted in an boom in online shopping but did platforms do enough to protect holders of trade marks and consumers against counterfeits? Moreover, should the flood of trademark applications associated with the pandemic for non-medical related goods be seen as a sign of entrepreneurial spirit or as a violation of trade mark law? And what role did design law play in promoting innovation in the ways we design products and the spaces in which we live and work?

Much of the debate illustrates classical dilemmas for IPR: Free information flow saves lives but so do drugs, and if drugs cannot be developed without restrictions on access to and use of information, then how to balance the two? IPRs response has always been to find middle grounds. Exclusive rights are not absolute but limited in time and via dedicated limitations and exceptions and rules on compulsory licensing. During the crisis, many of these time-honoured principles have been relied upon and stress-tested. For example, countries even in the developed world have revisited compulsory licensing of patents and the Doha Declaration is breathing new air. For copyright, so far little-used rules on “public security” have been debated. Also, initiatives have been made to explore some of the more exotic safety valves, such as the TRIPS provisions on “essential security interests” or the ability to waive certain or all TRIPS obligations. Moreover, various more or less private initiatives have been launched to provide for open access to information or to ease the transfer of technology, and at the international level, a new treaty has been proposed.

Even if much has been done, the pandemic has also pointed to more fundamental flaws. Because of the unprecedented scale of the crisis, much of what we thought we knew about balancing has been thrown up into the air. There is little “middle ground” to be found when the ground itself is shaking. In this way, the experience is also an opportunity to reflect more broadly and to think forward: If we think of a “crisis” as the “temporary absence of normality”, we implicitly assume that once the crisis is over, we should all go back to where we were before the crisis hit. But what if the “normality” we have geared out systems to reflect is not worth going back to? Or what if the world will never become “normal” again? Did the unprecedented need for online access to teaching material and culture created by our collective hours spend on ZOOM and on the platforms of streaming services reflect a “crisis”? Or did it offer a glimpse into a “new normal” in which territorial rights do not really make sense? In similar ways: how could concerns for “populations” and “societal needs” be factored into the IPR fabric and would it help to “make everyone safe”? Where do we find the middle ground between compulsion and an IP system based on strong exclusive rights? Could states and the international community nudge IP owners to co-operate and will there be more FRAND-type models in the future, where right owners only retain their full rights if they commit to granting licenses - for example when receiving state funding? Do the various private ordering solutions or public-private partnerships indicate new pathways to growth and the sharing of knowledge or do they just make already broken systems work a little better?

The 40th ATRIP Congress will try to take stock and use the lessons learned so far from the Covid 19-tragedy about the way the IPR systems have fared in this unprecedented crisis. In balancing between incentivizing industry and securing access to information and vaccines for all, where did the systems fail and where did they succeed? How can we prepare ourselves for the next crisis and what if the current situation gave us a glimpse of a “new normal”. Are we ready for that?

Taking as a starting point that the pandemic provides a unique prism for looking at the way all the IPR systems balance innovation and access concerns in times of crisis and seeking to learn lessons for the future, the 40th ATRIP Congress will look at experiences from the past years to critically assess the role and function of IPR in the development of the responses to the pandemic and to look in the mirror and ask: What happened? Why? What now?

I invite ATRIP members to submit paper proposals on these questions within all areas of IP law, including:

- Do the existing forms of protection sufficiently incentive and reward the intellectual effort the society needs in times of crisis and is exclusivity the right model to promote solutions that benefit the societal needs in general and on a global scale?

- What are the effects of the extensive transfer of civic life, including trade, education, culture and more, to the online environment on various IPRs?
- Should TRIPS and other international agreements be revisited to accommodate the next global crisis?
- What are the effects of IPRs on the transfer of knowledge and global distribution of goods in times of crisis and how could the systems be recalibrated to boost technology transfer, local capacities and improve supply chains and consumers' interests?
- What has been the role of universities, non-governmental organizations, intergovernmental organizations, and public-private-partnership in innovation and how could we better encourage technology sharing and promote new or enhanced forms of collaboration to make sure that needed information is made available to all?
- For health data: Has data protection limited access to, and analysis of, data specifically for research purposes unreasonably and do access/transparency regulation help?
- What were the effects of covid on trade mark and design law?
- Looking forward: What lessons have we learned for *the* crisis of the climate?

On behalf of the Executive Committee, I invite you to submit an abstract not exceeding 350 words and including the author's name, title and affiliation. You need not send a CV.

As ATRIP is an international organization, we welcome the submission of abstracts from around the world and care will be taken in the selection process to achieve global diversity as well as academic quality.

Scholars of all levels of experience are invited to submit abstracts. Abstracts received from ATRIP Members with no outstanding membership fee payment will be reviewed first.

Abstracts should be sent no later than 1 February 2022 to ATRIP's President, Professor Jens Schovsbo, at the following address: president@atrip.org.

Notification of the outcome of the selection process will be sent in March 2022.

Because of the uncertainties created by the ongoing Pandemic, the exact format of the Conference will be announced in early 2022.

Jens Schovsbo, President, ATRIP