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Foreword

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FOREWORD

By one estimate, the value of intangible assets owned by publicly traded U.S. companies exceeded \$8 trillion in 2011.¹ As increasingly recognized in corporate boardrooms around the world, intangible intellectual property (IP) assets (i.e., patents, copyrights, trademarks, trade dress, trade secrets, mask and design works) are essential to economic success in a global business environment. A recently published study by the World Intellectual Property Organization reported that revenues from global IP licensing royalties alone increased from just \$2.8 billion in 1970 to over \$180 billion in 2009, a growth rate substantially higher than the increase in global gross domestic product over the same time period.²

Thus, for companies competing for market share in an increasingly competitive global business environment, profitability is often determined by the depth, breadth and quality of the intangible IP assets which they own or license from others, and the effective management of those assets. Because the business value of IP assets is often difficult to quantify, however, the effective management of those assets requires both a system based on sound economic principles, and a strategy for linking the assets to business goals. This volume of *Cybaris®*, *an Intellectual Property Law Review*, which is based on presentations and panel discussions at a continuing legal education workshop sponsored by William Mitchell's Intellectual Property Institute,³ highlights some of the

¹ HASSETT, KEVIN A. & ROBERT J. SHAPIRO, WHAT IDEAS ARE WORTH: THE VALUE OF INTELLECTUAL CAPITAL AND INTANGIBLE ASSETS IN THE AMERICAN ECONOMY 4 (2011).

² WORLD INTELL. PROP. ORG., WORLD INTELLECTUAL PROPERTY REPORT: THE CHANGING FACE OF INNOVATION 9 (2011).

³ Susan Krelitz et al., Conference Presentations at the William Mitchell College of Law Continuing Legal Education Seminar: Managing IP Assets at the Speed of Business (Oct. 4, 2013) (recording on file with William Mitchell College of Law).

systems, strategies, and best practices for effectively managing IP assets.

Susan Krelitz of IPfolio, Inc. and William Mitchell student Alex Sellke provide an overview of the IP assets management process and discuss a framework for developing a global IP assets management strategy to meet the objectives of a global business organization.

Robert Fichter of Dennemeyer & Associates and William Mitchell student Nicholas Benham provide insight into the implementation of a patent filing and prosecution strategy from a geographic perspective, including a concise discussion of patent laws in various international jurisdictions, as well as methodologies for establishing global patent rights. William Mitchell student Nadja Baer provides similar insight with respect to a trademark protection strategy suitable for small and medium sized U.S. companies, with a particular focus on European trademarks, in her comment.

Gilbert Voortmans of 3M and William Mitchell student Enrique W. Iturralde provide an in depth discussion of the value of intellectual assets. The discussion sets forth a value-based perspective on managing a portfolio of intellectual assets, rather than a cost-based approach. The value-based notion supports the idea that strategic management of intellectual assets must start with the alignment of the IP portfolio with business objectives, and offers five practical considerations for maximizing the value of intellectual assets.

Just as expertise in standard accounting principles must be applied to manage tangible assets, so too must standard accounting principles be applied to successfully manage intangible IP assets. Renée Marino, founder of Cupitor Consulting, and William Mitchell student Andrew Marnach share knowledge and methodologies required to do just that.

Steven W. Roth of IBM Corporation and William Mitchell student Marlo T. Miksche provide insight into patent utilization. Typically, this topic is referred to as monetization and generally

viewed as licensing. Based on Mr. Roth's extensive licensing experience, the authors review a number of ways to use and monetize patents to increase the value of an IP portfolio that go far beyond the traditional licensing model.

Harry J. Gwinnell of Greenblum & Bernstein and William Mitchell student Katherine S. Boyle provide practical insights with respect to a disciplined, integrated approach to build a global IP strategy from the ground up, based on over thirty years of IP management experience, first as an attorney, and ultimately as chief IP counsel for Cargill Corporation.

We trust that you will find the diverse perspectives and best practices presented in this issue both instructive and useful. More particularly, we hope that you will draw on the practical concepts presented herein to help you effectively manage IP assets for your employer and clients. The approximately 27 million American IP-intensive jobs which accounted for about 35% of U.S. gross domestic product and over 40% of U.S. export gross domestic product in 2010,⁴ stand witness to the fact that IP assets have become "the proverbial bread and butter" of the U.S. economy, leading to the inevitable conclusion that properly managed IP assets could well-serve other economies in other countries whose citizens seek to live the American dream.

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⁴ RAYMOND J. KEATING, UNLEASHING SMALL BUSINESS THROUGH IP 19 (Small Business & Entrepreneurship Council 2013).