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11-18-2012

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Cardozo Arts & Entertainment Law Journal

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Recommended Citation

Hirst, Adam, "The American Invents Act and Economic Growth: A Discussion with Bernard Knight" (2012). *AELJ Blog*. 14.

<https://larc.cardozo.yu.edu/aelj-blog/14>

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The American Invents Act and Economic Growth: A Discussion with Bernard Knight

Posted on November 18, 2012

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The [Cardozo Intellectual Property Society](#) hosted [Mr. Bernard Knight](#), the current General Counsel of the US [Patent and Trademark Office \(USPTO\)](#), for a discussion of his role as the chief attorney for a large US government agency and recent, significant, changes to patent law, with particular emphasis on the [America Invents Act \(AIA\)](#).

Mr. Knight stated that the AIA is the biggest change in trademark and patent law over the past fifty years. One of the major changes of the AIA was to change U.S. patent law from a "first-to-invent" system to a "first-to-file system." This change brings U.S. patent law into harmony with the patent law of other developed countries. Mr. Knight also mentioned a number of other reforms included in the AIA: Post-grant review, *inter partes* review, and fee setting authority delegated to the USPTO that would allow the USPTO to adjust its fees "in the aggregate" to recover the estimated costs of its activities. Mr Knight said that the AIA was implemented in a year without lawsuits being filed against the agency.

Mr. Knight noted that intellectual property spurs America's economic growth. He then discussed the economic incentives necessary for pharmaceutical companies to develop cutting edge drugs. In industries as diverse as manufacturing, software, and biotechnology, Mr. Knight noted, intellectual property enables business founders to start their ventures..

Next, Mr. Knight discussed the administrative law aspect of his agency's work, with particular focus on the [Administrative Procedures Act \(APA\)](#) and the rulemaking process.

Mr. Knight also explained how the USPTO develops its positions for amicus briefs that it submits to the Supreme Court and the lower courts. Specifically, Bernard Knight discussed how the USPTO developed its position in recent cases including [Microsoft Corp. v. i4i Limited Partnership](#), [Stanford v. Roche](#), and [Already, LLC v. Nike, Inc.](#)

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