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COVID-19 Resources

FICPI Webinar 29 April 2020:

'Managing an IP business through a lockdown and beyond'

Session notes

This is FICPI's second webinar in its series tackling issues relevant to changing personal and work lives due to the restrictions necessary to tackle coronavirus.

Our presenters today are:

- Bastiaan Koster – moderator (South Africa)

Speakers

- Christian Wende (Germany)
- Rob Katz (US)
- Coleen Morrison (Canada)
- Marc Levieils (France)

Bastiaan Koster - continuing to practice law at a time of coronavirus is a challenge while attempting to social distance and balance attempts to work from home with family and we are stressed and anxious about the future.

During today's webinar we will cover subjects such as: an update on how IP attorneys in other countries are experiencing working from home and the impact of coronavirus on our practices; tips you could use in your firms; and how to prepare for the partial lifting of the lockdown.

The speakers will focus on their own personal experiences plus those of their firms without giving confidential information away.

The topics we will discuss are very broad and we are likely to also identify specific issues on which you would like an additional webinar or other information which could be tackled at a later date.

We will look at five issues:

1. Managing work at home, what worked and what didn't
2. Understanding and responding to needs of clients
3. Whether there be a reduction in revenue for firms
4. Business development in the year of Covid
5. Will your IP business look different 6 months or more from now?



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Managing work at home, what worked and what didn't

It is important to distinguish between working from home (WFH) pre-coronavirus; during lockdown; and during a partial lockdown; and once the pandemic is over. In my own firm we moved to a full lockdown surprisingly well.

What really helped us was that we already had a formal WFH policy where certain staff could work from home one day a week. We have also been a fully paperless office for 10 years.

Coleen Morrison, Canada – if there is a “professional work” from home professional then it's probably me! My husband is Australian, so I spend some time there and my experiences have been many and varied. When my children were young I did the more typical remote working one or two days at home.

However, with Covid-19 we are in a special situation, this is not a usual work at home. Our homes are much busier with children and spouse at home and trying to work or study. Getting groceries and other tasks have become a challenge which they weren't usually in the past... Professionals and staff are doing their best under difficult circumstances and we must remember to thank people for continuing to be productive in these circumstances.

When I was a managing partner, I let my staff work at home one or two days per week, beyond that it was a challenge. They were accustomed to doing this and it worked well. We had almost zero absentee rate during this time. This is a lesson to take going forwards. As time goes on and we start to come out of the crisis we will need to have some staff in the office and some at home. We will need to realise that it will be hard to bring all staff back into the office now, and some flexibility of thinking will be needed for quite a long time.

Bastiaan Koster, South Africa – in my firm we resisted working from home and only gave in about 6 months ago, so we had a policy already in place, and those who had started working from home previously had shown they were very productive.

Christian Wende, Germany – in our firm we already people who could work from home before the lockdown, and they had their systems set up to run from home. When the situation got worse and we had to find a solution for the scenario that the whole office would go into quarantine due to a suspected case of coronavirus, we sent those people home and the other team stayed in the office.

This worked quite well and the interaction worked well. We had a daily Zoom meeting or teleconference to exchange thoughts and talk about the work for the day. This only worked for a certain period, and with kindergartens and schools being closed it has proved challenging.



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Now staff can come to the office to work some days, kids have been back in kindergarten since the start of this week. Law offices are considered to be essential, so the children can go to essential workers daycare, so the stress has relieved a little.

We will build up two teams that do not see each other, so that if there is an infection in one team, the other team can continue. Otherwise, the entire firm would have to go into quarantine for 14 days, if we have an infection within the office or in the group of close contacts of the office team. WFH with kids can be challenging, from my personal experience it can be distracting and there's the balance of not wanting to make children think that you don't want to play with them, whilst wanting to be diligent about work.

Q: Can you keep the two teams separate all the time? Or do you move people between teams?

Christian: We keep the teams separated, each team has a full complement of skills. At the moment we are handling it with one person per room, wearing masks, keeping at least 2 metres apart in closed rooms. We plan very carefully who comes in at each time.

There is no one coming in person to our office other than staff. All client meetings are online, using Zoom, Google Hangouts, WhatsApp etc.

Marc Leveils, France - I am in charge of technical points for my firm. Most of our staff were more or less ready but none of us imagined having to organise our work at home activities for all staff and over such a long period of time. It is not unusual for us to work at home but this is a full scale test of disaster recovery. Our main difficulties were small problems – we did not anticipate all the team meetings that would be difficult to manage in this situation like internet connectivity of staff not used to working at home, some unsuitable equipment such as very small screens for their computers compared to at the office. We solved these problems progressively and we have tried to provide the necessary support. That means that recently we organised small groups service-by-service so that they can share their problems and share experiences and tips.

Q – Are you seeing acres of empty office space? What are your experiences of negotiating rent relief with landlords? How do you control the working hours of your staff?

Rob Katz, US - our law firm has 125 attorneys. Around 25 who work remotely all or most of the time in cities where we don't have an existing office structure. We have another 25 or so who work remotely the majority of the time and come in when it's most efficient for them.

So we had about half the attorneys who needed to learn to adjust but it hasn't proved that challenging. I used to work remotely every other week in the summer, for example. Almost every attorney already knew how to work remotely and had done it at some point.



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We, as attorneys, are professionals and we know how to work under different conditions and get the work done. The biggest challenge has been with our staff where we didn't used to let our staff work from home. We didn't want them to be working from home and we were more comfortable from a confidentiality perspective having them work in the office. We also felt that our clients wanted that too...

We quickly provided loaner laptops or computers, access via VPN or Citrix and are helping staff make adjustments, with particular challenges around children being at home. Staff have a software program where they sign in like a punch card. They sign out at lunchtime and the end of the day and are expected to be working during their core hours like they were in the office.

It will be a challenge when this is over to decide whether we request staff to work full time at the office again. Currently we are having weekly board meetings rather than monthly. We don't generate every good idea ourselves, we are open to ideas from other firms too.

Coleen Morrison, Canada – in terms of the question about negotiating with landlords. Just down the hall from my office is a business lawyer who happened to be doing work on force majeure contracts. Her bottom line conclusion that seemed very reasonable to me was that it is essential for both the landlord and tenant to negotiate and work together to reach a compromise. . We will have different space needs going forward and likely fewer people in the office and perhaps floating offices. Landlords will still need to fill their spaces. Best to recognize and prioritize the need to preserve both landlord and tenant businesses.

Q - What's your opinion for smaller firms working one day a week or more from home?

Christian Wende, Germany – when I started at my firm we had 15 people. We already had some experience of people working at home but only some people as our systems were not paperless and we were not ready for everyone to work from home.

We should be fully digital in the next few weeks. Technically it is possible to work from home but if you have no physical place where you come together and where you are integrated and you feel belong to it - this makes it really hard. We already see that people are very happy to come back to the office.

Q – How can you understand and respond to needs of clients which will change in view of coronavirus? We need to anticipate those needs, clients may become more cost sensitive, may close down, for others there will be new lines of business and new inventions and possibilities. Cost deferring strategies may become relevant again.

Coleen Morrison, Canada – there's no one solution for clients because we're seeing such big differences across the spectrum from airlines and hotels who are suffering to biotech that is booming. In Canada there are huge amounts being poured into vaccines and diagnostics just as there is a lot of public money worldwide going into that. It's sometimes hard to judge



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what's going on more broadly across all industries. However, I took a look at trade mark filings and my investigation suggests that 75% of last year's filings are still being done now and there are reasons specific to Canada to believe the actual figure might be more like 80%. Trademark filings might be a little better indicator than new patent filings, true suffering across all industries. Things are not perhaps as dire as some people would have you believe, but it remains to be seen how the broader economy copes over the coming months.

Christian Wende, Germany – my clients are a bit more demanding now as they want to have their anti-covid inventions on file quickly. I am working with VC firms and their portfolio companies and they are finding everything is prolonged and it's challenging for them. We have a lot of calls and documents to prepare to guide them through the due diligence process. That's a lot of extra work right now. I have also some good clients in automotive who are suffering and asking for reductions. We are accepting this. Before the crisis they may have been Tier 1 clients and we are in the panel of selected firms and our firm want to remain in that position after the crisis.

Marc Levieils, France – I'd like mainly to reconfirm what has been said. Aircraft and automotive are not being impacted in the same way as pharma or IT. We have a wide range of activities across sectors and we see great contrasts. We are trying to exchange regular communications with client and to ask them how things are going so we can anticipate business we may have or not. We were very pessimistic at the start of the lockdown, now we are less so. We are waiting for the progressive lift of the lockdown situation to reassess the impact.

Bastiaan Koster, South Africa – now is the time to preach the importance of IP!

Rob Katz, US – it is very industry specific but also our patent prosecution and trade mark work remain fairly consistent. We have seen a slight slowdown driven by courts and government being quite slow and pushing litigation schedules back. Companies are also being a bit more conservative about dollars and considering whether to hold back on filing IPR litigation. We have also seen work coming through from coronavirus inventions. I personally haven't seen a big push from our clients for extra time or reductions, I think that means they recognise our work represents market value. Obviously, accommodations might need to be made for clients who work in specialised sectors.

Christian Wende, Germany – we do not see a drop in cashflow or expect too many clients to be affected as more or less 80% are expanding their business. We had a widespread portfolio, so the old economy clients are being overcompensated by the new. In the oppositions side, workload may run into problems and the litigators may need to move to other work. I try to be in close contact with clients and to be very responsive to questions on their needs. Now everyone is trying to call you or wants a call so that's a problem too – they have my mobile, WhatsApp, Zoom... so I am putting out times when I'm available to schedule calls. Into the future I think that for more months we will need to manage this new



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reality – from the first weeks we can see that staff want a physical interaction but we have to implement rules, so that if someone gets infected we can work with staff who are at home under quarantine.

Please stay healthy and be positive. If you are positive and encourage your clients to be so, you will always have work.

Coleen Morrison, Canada – as far as the question about whether staff working remotely are working productively, in my experience, the more senior the staff, the less of a problem, whether it's core hours or not. The less experienced staff require more hands-on management. Maybe the younger people will go back into the office first, along with the less experienced people and some management to give them oversight. The new working situation has added an extra task to the current list of management duties.

Marc Leveils, France – as regards the question about drop in revenue and short-term cashflow...

We anticipate a slowdown in activities – it is difficult to anticipate a good year for 2020 now. The French government has taken some measures to help with short-term cash flow and we are using these to face the situation but we always suffer from lack of visibility to rightsize the workload in the coming two or three months, so we have to keep our teams occupied. It's going to be a tricky balance over the coming weeks.

Rob Katz, US – we haven't seen a drop in revenue yet. From when the work comes in until the payment comes in, we're dealing with a three-month period or so until payment, so delays are likely to show up in this calendar year.

Hopefully we'll see little slowdown in patent or trade mark prosecution but we will need to manage it. Our regular board meetings are now weekly not monthly and we're looking at everything in real-time – hours worked that week, receipts that week, where we can cut expenses, where we can be more conservative with expenses.

We're fortunate we have not cut salaries or made any layoffs, and we haven't done any in my 28 years at the firm but no one knows what the economy will look like 12 months from now. We have been very fortunate but we have to be very smart with our finances going forwards.

Coleen Morrison, Canada – As one way of weathering the crisis, we have seen several large firms in Canada institute a broad cut of 10 or 20 % to all salaries and partner draws. I think this reflects a recognition in Canada that we're all in this together. Across the board firms are taking pay cuts at senior level.

Bastiaan Koster, South Africa – if we are smart, we will be able to sail through this pandemic relatively well.



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Q - Business development in the era of Covid-19... depending on how Covid-19 behaves and whether there is an early vaccine, there may be no conferences in person for the rest of this year or even into 2021. What alternative business development mechanisms can be used in the meantime?

Coleen Morrison, Canada – this crisis is not a short-term phenomenon. I believe conferences will be affected until next year. If airlines pull out every middle seat, flights may become a luxury that not everyone can afford. FICPI is looking at conferences that can be done virtually. We are also looking at Zoom opportunities for FICPI which are more social, so you will see those being announced soon and that could be an important component of business development long term.

Marc Levieils, France – I think the future will see a mix between in-person and digital contacts. Being imaginative on creating digital occasions for social events will be required. We can take the opportunity to discuss with clients how we can develop our service and better serve their needs and be more efficient. Online services etc. -- we could perhaps reinvent our relationship with our clients.

Rob Katz, US – from a conference standpoint I don't see big conferences coming back until next year and even then they could be slowed down. Some conferences have already migrated to webinars which were previously in person. I expect more article writing too, as people are more remote. People on the cutting edge of IP will likely will be writing articles and looking to get those published. I think it will be tougher to visits clients but in the past there were many telephone calls. Now they are Zoom, Webex etc. - so we see each other in a video call and these are likely to be more frequent.

Future of IP Practices?

Coleen Morrison, Canada – I asked my managing partner's view as to what the future holds. He thought we will be even more appreciative of our staff and clients after this crisis; we will be very grateful for staff that got us through this, and we will be doing more nurturing of our client relationships.

Marc Levieils, France – I think the future will be a mix of as much personal contact as possible with new direction. Lots to do with digitalisation – working pretty well in these circumstances but we had some tweaks to make to meet our client demands and our processes and efficiencies.

Rob Katz, US – my personal outlook is that once an antidote has been created we will likely be back to working the way we were pre-coronavirus. The lack of social interaction is bothering all of us and we have short memories. More flexibility will need to be built into the system in the short term. I don't think everyone is working from home with the same degree of productivity without big screens, multi-screens, standing desks etc. We need to



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figure out what works for staff and performance levels. We will be addressing these difficult issues along the way.

Bastiaan Koster, South Africa – now is the time to appreciate your client, to appreciate your staff and make sure they appreciate you and your firm. We have to get very close while keeping a good distance and be thankful we are in the IP business where it's a long-term investment.

Suggestions for future topics

Please contact: secretariat@ficpi.org

How to join FICPI

Go to the website www.ficpi.org where you can see many national sections and you can contact them directly and join that way

Otherwise – can apply direct to secretariat@ficpi.org and we will contact you and provide you with more information.