

Senator Lindsey Graham, Ranking Member
Questions for the Record
Deborah Ann Robinson
Nominee to be Intellectual Property Enforcement Coordinator

- 1. Please explain how your experiences at Viacom CBS and the Recording Industry Association of America have prepared you for the role to which you have been nominated.**

Response:

Prior to joining the Recording Industry Association of America (RIAA), I was a prosecutor for seven years in the Philadelphia District Attorney's Office. Joining the RIAA allowed me to further sharpen my prosecutorial skills. I gained significant experience working specifically on infringing sound recording and illegal trademark and labeling cases. I worked closely with law enforcement, assisting with state and federal investigations, including with officers in the Computer Crime and Intellectual Property Section (CCIPS) of the Department of Justice and in the National Intellectual Property Rights Coordination Center (IPR Center). I also provided trial strategies and aided prosecutors, from the indictment phase of a case, to preliminary hearing through trial.

At Paramount Global (formally ViacomCBS), I developed and implemented anti-piracy protocols and strategies for the global protection of the ViacomCBS intellectual property portfolio. I managed large groups of people and coordinated company divisions to create workflows and have an organized response to ever changing global IP enforcement issues and IP theft. I made criminal referrals, managed civil litigations, and created and facilitated global content protection awareness programs. I also liaised with trade organizations and coalitions and led collaborative efforts with social media platforms.

My work experience as a prosecutor, in the Philadelphia District Attorney's Office, at RIAA and at Paramount Global has provided me with a comprehensive background in cross-industry global intellectual property protection and enforcement. This experience has prepared me and aligns directly with the role of the Intellectual Property Enforcement Coordinator (IPEC).

- 2. Please identify what your top three priorities will be as the Intellectual Property Enforcement Coordinator. How will you implement those priorities?**

Response:

I have identified 4 top priorities. They are:

- 1. Safety and Security** – First and foremost, my priority will be the safety and security of the American people. This means, among other things, supporting the enforcement agencies to ensure that infringing products such as counterfeit medicines, knock-off batteries, and poisonous health and beauty products stay out of American homes and

- businesses. I will also build on the work of previous IPECs to facilitate stakeholder-driven voluntary initiatives and programs, especially to prevent digital infringement. I will work to ensure that the government leads by example by employing effective mechanisms to keep its own supply chain and purchases free of infringing goods. I will also support the continuation of training programs and dissemination of training resources for federal and local law enforcement professionals and prosecutors.
2. **Technology** - With the mass proliferation of advanced technologies in every device in our homes and workplaces, the theft of IP poses an enormous threat to our collective economic, national security, and health and safety interests. I would ensure that the IPEC office and the relevant enforcement agencies stay abreast and understand technological developments that affect IP rights and that pose threats. I would facilitate access to the expertise of, for example, the Office of Science and Technology Policy, Energy, and Defense Departments. I would support the enforcement agencies by working with them to ensure that agencies have the information that is needed to develop enforcement tools that respond to evolving and nuanced infringement threats. I would also work to gain insights into marketplace developments through engagements with various stakeholders, including non-governmental organizations, industry groups, unions and guilds, and consumer protection organizations to develop proactive strategic enforcement solutions.
 3. **International Engagement** - Foreign-based and state-sponsored infringement have never posed as grave a threat to the work of American creators and inventors. While supporting the work of agencies such as the Office of United States Trade Representative, State Department, Commerce Department, Copyright Office, and USPTO, I will prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies. I will work closely with those agencies and their partners to disrupt and prevent foreign-based and state-sponsored infringement. I will also support the existing programs that the State Department, Justice Department and other agencies have built with international law enforcement bodies, and I will ensure that the IPEC fully commits to the whole-of-government response we need to combat theft from foreign countries.
 4. **Education** - I plan to have an open line of exchange of content-protection related information between IP owners and stakeholders and the office of the IPEC. I will coordinate and partner with the relevant agencies, including the Patent and Trademark Office and the Copyright Office, to ensure that the Federal Government provides effective and up-to-date resources for the public, individual creators, inventors, and entrepreneurs. In addition, also working with the agencies, I will aim to ensure that there are effective and timely mechanisms for sharing data and other relevant information between the private sector – from rights holders to enforcement vendors to professional groups – and the government, and in turn from the government back to the private sector, so that government enforcement agencies can more effectively respond and target their enforcement actions.

What are the greatest current threats to U.S. intellectual property?

Response:

The greatest current threats to US intellectual property are foreign-based state sponsored theft, including and especially from China and other international competitors; counterfeit and potentially dangerous products entering into our supply chain that threaten our national security and American health and safety, such as dangerous toys, counterfeit batteries, fake auto parts and poisonous health and beauty products; the rise of e-commerce sites selling infringing products, including but not limited to medications, medical supplies, consumer electronics and technology products; and digital theft that infringes the rights of artists, authors, inventors and everyone across the whole of the IP landscape.

- 3. This Committee’s Subcommittee on Intellectual Property has held hearings about the intersection of artificial intelligence and intellectual property. How do you plan to approach the proliferation of artificial intelligence systems if you are confirmed as the IPEC? Critical to coordinating all of government understanding, work with the relevant agencies, WH and this committee to make sure that we are prioritizing these issues.**

Response:

AI is an emerging technology with multiple pathways to development and very many uses, some of which could lead to or facilitate infringement and make it easier to find counterfeits online. If confirmed, I will monitor the research being done by Federal agencies and departments and pay close attention to conversations and discussions taking place within the Senate Judiciary IP Subcommittee and other Committees. I will evaluate the research and information to determine how we address AI issues while keeping Americans safe, protecting American jobs, and protecting and promoting American innovation, creativity, economic prosperity, and leadership in the AI race. While using the White House AI framework as a guide, I will also work with the agencies to create and implement an effective enforcement strategy.

- 4. The IPEC 2020-2023 Joint Strategic Plan highlighted that “[e]very year, competitors such as China steal U.S. intellectual property valued at hundreds of billions of dollars. Stealing proprietary technology and early-stage ideas allows competitors to unfairly tap into the innovation of free societies.” What steps will you take, if confirmed, to address the theft of U.S. Intellectual property by competitors such as the People’s Republic of China?**

Response:

If confirmed as IPEC, I will address the theft of US IP property, by China and other competitors, by supporting the work currently being done by foreign-facing agencies, namely USTR, State Department, Commerce Department, Copyright Office, and USPTO.

I will prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies. I will proactively work to prevent state sponsored Chinese theft; encourage meaningful consequences for infringement; and take the lead on enforcement initiatives so that Americans will not suffer consequences when they assert their IP rights.

5. Patents and patent enforcement are vital to our national interest and within the statutory scope of the IPEC's responsibilities. Will you commit to prioritizing patent issues as part of your portfolio if you are confirmed to serve as the IPEC?

Yes.

6. What steps will you take to ensure that we maintain a well-functioning patent system, including addressing litigation abuses?

Response:

A well-functioning patent system is a vital part of an IP system. A patent right, like other IP rights, is meaningless if it cannot be enforced. I will work with the USPTO and relevant agencies to support a well-functioning patent system.

7. In your role as IPEC, how do you plan on working with the USPTO on patent enforcement issues?

Response:

If confirmed, I will commit to making it an immediate priority to determine the challenges that the USPTO and other agencies are facing with enforcement efforts. I will commit to working closely and collaboratively with the USPTO to support their current domestic and international patent enforcement programs and policies. I will drive engagement with public and private sector partners to have meaningful IP enforcement discussions and information exchanges. I will also ensure that IP enforcement considerations are included in the work of our foreign-facing agencies. I will work to coordinate resources while incorporating a whole-of-government strategy to continue to ensure that American creativity and innovation is promoted and protected and that American innovators choose to patent their inventions in the US.

8. In your Committee questionnaire, you only provided specific identifying information for one case that you litigated in your career. However in multiple television interviews, including one with CNN, you described your involvement in a high-profile case concerning a celebrity.

a. What was the celebrity case that you discussed?

Response:

To the best of my recollection, I was answering generic questions about what trying a celebrity case involves. To the extent that my response did implicate a celebrity case that I had tried, I cannot name the case or the defendant, as doing so poses a personal security risk to me.

b. Why did you not disclose this case to the Committee?

Response:

Question #15 on the Judiciary Questionnaire asked for the most significant case litigated. While the case I handled was a celebrity case, it was not one of my most significant cases. In addition, naming the case or the defendant poses a personal security risk to me.

9. Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.

Response:

Students for Fair Admissions challenged the admission programs of Harvard and UNC. The district courts in both actions upheld the programs. The First Circuit affirmed the district court judgment as to Harvard and the Supreme Court granted certiorari before the Fourth Circuit could render judgment in the UNC appeal. The Supreme Court reversed both district courts holding that the admissions programs violated Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment.

10. Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?

If yes, please list each job or role where you participated in hiring decisions.

Response:

I was a member of the hiring committee at the Philadelphia District Attorney's Office. I took part in the hiring decision process for the Northeast Regional RIAA office paralegal. I made hiring decisions regarding my staff at Paramount Global (formally ViacomCBS).

11. Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?

Response: No.

12. Have you ever solicited applications for employment on the basis of race, ethnicity, religion, or sex?

Response: No.

- 13. Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer's decision to grant the preference.

Response:

Paramount Global (formally ViacomCBS) operated programs to promote and produce diverse and inclusive content and a representative work force. I was not involved in those programs.

- 14. Demand Justice is a progressive organization dedicated to “restor[ing] ideological balance and legitimacy to our nation's courts.”**

- a. Has anyone associated with Demand Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with Demand Justice, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Katie O'Connor, Jen Dansereau, Faiz Shakir, and/or Stasha Rhodes?**

Response: No.

- c. Have you ever been in contact with anyone associated with Demand Justice, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Katie O'Connor, Jen Dansereau, Faiz Shakir, and/or Stasha Rhodes?**

Response: No.

- 15. The Alliance for Justice is a “national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”**

- a. **Has anyone associated with Alliance for Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Alliance for Justice, including, but not limited to: Rakim Brooks and/or Daniel L. Goldberg?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Demand Justice, including, but not limited to: Rakim Brooks and/or Daniel L. Goldberg?**

Response: No.

16. Arabella Advisors is a progressive organization founded “to provide strategic guidance for effective philanthropy” that has evolved into a “mission-driven, Certified B Corporation” to “increase their philanthropic impact.”

- a. **Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund.**

Response: No.

- c. **Are you currently in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- d. **Have you ever been in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

17. The Open Society Foundations is a progressive organization that “work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens.”

- a. Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with the Open Society Foundations?**

Response: No.

- c. Have you ever been in contact with anyone associated with the Open Society Foundations?**

Response: No.

18. Fix the Court is a “non-partisan, 501(C)(3) organization that advocates for non-ideological ‘fixes’ that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people.”

- a. Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with Fix the Court, including but not limited to: Gabe Roth, Tyler Cooper, Dylan Hosmer-Quint and/or Mackenzie Long?**

Response: No.

- c. Have you ever been in contact with anyone associated with Fix the Court, including but not limited to: Gabe Roth, Tyler Cooper, Dylan Hosmer-Quint and/or Mackenzie Long?**

Response: No.

19. Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response:

I have been nominated to serve as the Intellectual Property Enforcement Coordinator. Please see my response to Question 27, below, for details on my interactions with staff from various White House components that led to my nomination.

20. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

21. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

22. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.

Response: No.

23. During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

24. During your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

25. Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?

Response: No.

- a. If yes,
 - i. Who?
 - ii. What advice did they give?

iii. Did they suggest that you omit or include any particular case or type of case in your questionnaire?

26. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

January 9, 2023 – Call with the Presidential Personnel Office

January 19, 2023 – Interview with Presidential Personnel Office

January 20, 2023 – Interview with staff from the National Economic Council

January 23, 2023 – Interview with staff from the Office of Science and Technology Policy

March 8, 2023 – Call with vetting attorney staff in the Executive Office of President

March 16, 2023 – Call with vetting attorney staff in the Executive Office of President

March 23, 2023 – Call with Senior Ethics Counsel in the Presidential Personnel Office

March 24, 2023 – Interview with vetting attorneys in the Executive Office of President

March 31, 2023 – Call with IPEC Office Designated Agency Ethics Official (DAEO)

April 6, 2023 – Call with IPEC Office DAEO

April 6, 2023 – Call with Deputy Associate Counsel & Senior Tax Counsel
in the Presidential Personnel Office

April 25, 2023 – Call with the IPEC Office DAEO

27. Please explain, with particularity, the process whereby you answered these questions.

Response:

I drafted the questions and sent them to the Office of White House Counsel for review. I received limited feedback on my draft responses and finalized them for submission.

**Senate Judiciary Committee
Nominations Hearing
September 6, 2023
Questions for the Record
Senator Amy Klobuchar**

**Deborah Ann Robinson, to be Intellectual Property Enforcement
Coordinator, Executive Office of the President**

You have been nominated to serve as the Intellectual Property Enforcement Coordinator, which advises the President and coordinates with departments and agencies on matters of intellectual property policy and strategy, including the Joint Strategic Plan on Intellectual Property Enforcement.

- **How has your experience in private industry prepared you for this role?**

Response:

I worked in public service, as a prosecutor, for seven years prior to working in the private sector at the Recording Industry Association of America (RIAA). Joining the RIAA allowed me to further sharpen my prosecutorial skills. I gained significant experience working specifically on infringing sound recording and illegal trademark and labeling cases. I worked closely with law enforcement, assisting with state and federal investigations, including with officers in the Computer Crime and Intellectual Property Section (CCIPS) of the Department of Justice and in the National Intellectual Property Rights Coordination Center (IPR Center). I also provided trial strategies and aided prosecutors, from the indictment phase of a case, to preliminary hearing through trial.

At Paramount Global (formally ViacomCBS), I developed and implemented anti-piracy protocols and strategies for the global protection of the ViacomCBS intellectual property portfolio. I managed large groups of people and coordinated company divisions to create workflows and have an organized response to ever changing global IP enforcement issues and IP theft. I made criminal referrals, managed civil litigations, and created and facilitated global content protection awareness programs. I also liaised with trade organizations and coalitions and led collaborative efforts with social media platforms.

My work experience in both the public and private sector has provided me with a comprehensive background in cross-industry global intellectual property protection and enforcement. This experience has prepared me and aligns directly with the role of the Intellectual Property Enforcement Coordinator (IPEC).

- **What are some of the priority issues you intend to address if confirmed to serve as the Intellectual Property Enforcement Coordinator?**

Response:

My top priorities are:

1. **Safety and Security** – First and foremost, my priority will be the safety and security of the American people. This means, among other things, supporting the enforcement agencies to ensure that infringing products such as counterfeit medicines, knock-off batteries, and poisonous health and beauty products stay out of American homes and businesses. I will also build on the work of previous IPECs to facilitate stakeholder-driven voluntary initiatives and programs, especially to prevent digital infringement. I will work to ensure that the government leads by example by employing effective mechanisms to keep its own supply chain and purchases free of infringing goods. I will also support the continuation of training programs and dissemination of training resources for federal and local law enforcement professionals and prosecutors.
2. **Technology** - With the mass proliferation of advanced technologies in every device in our homes and workplaces, the theft of IP poses an enormous threat to our collective economic, national security, and health and safety interests. I would ensure that the IPEC office and the relevant enforcement agencies stay abreast and understand technological developments that affect IP rights and that pose threats. I would facilitate access to the expertise of, for example, the Office of Science and Technology Policy, Energy, and Defense Departments. I would support the enforcement agencies by working with them to ensure that agencies have the information that is needed to develop enforcement tools that respond to evolving and nuanced infringement threats. I would also work to gain insights into marketplace developments through engagements with various stakeholders, including non-governmental organizations,

industry groups, unions and guilds, and consumer protection organizations to develop proactive strategic enforcement solutions.

3. **International Engagement** - Foreign-based and state-sponsored infringement have never posed as grave a threat to the work of American creators and inventors. While supporting the work of agencies such as the Trade Representative, State Department, Commerce Department, Copyright Office, and USPTO, I will prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies. I will work closely with those agencies and their partners to disrupt and prevent foreign-based and state-sponsored infringement. I will also support the existing programs that the State Department, Justice Department and other agencies have built with international law enforcement bodies, and I will ensure that the IPEC fully commits to the whole-of-government response we need to combat theft from foreign countries.
4. **Education** - I plan to have an open line of exchange of content-protection related information between IP owners and stakeholders and the office of the IPEC. I will coordinate and partner with the relevant agencies, including the Patent and Trademark Office and the Copyright Office, to ensure that the Federal Government provides effective and up-to-date resources for the public, individual creators, inventors, and entrepreneurs. In addition, also working with the agencies, I will aim to ensure that there are effective and timely mechanisms for sharing data and other relevant information between the private sector – from rights holders to enforcement vendors to professional groups – and the government, and in turn from the government back to the private sector, so that government enforcement agencies can more effectively respond and target their enforcement actions.

Senator Mike Lee
Questions for the Record
Deborah Ann Robinson, Nominee to serve as the Intellectual
Property Enforcement Coordinator

1. What are your priorities for protecting American IP both domestically and abroad?

Response:

If confirmed, my priorities for protecting American IP both domestically and abroad are the following:

1. **Safety and Security** – First and foremost, my priority will be the safety and security of the American people. This means, among other things, supporting the enforcement agencies to ensure that infringing products such as counterfeit medicines, knock-off batteries, and poisonous health and beauty products stay out of American homes and businesses. I will also build on the work of previous IPECs to facilitate stakeholder-driven voluntary initiatives and programs, especially to prevent digital infringement. I will work to ensure that the government leads by example by employing effective mechanisms to keep its own supply chain and purchases free of infringing goods. I will also support the continuation of training programs and dissemination of training resources for federal and local law enforcement professionals and prosecutors.

2. **Technology** - With the mass proliferation of advanced technologies in every device in our homes and workplaces, the theft of IP poses an enormous threat to our collective economic, national security, and health and safety interests. I would ensure that the IPEC office and the relevant enforcement agencies stay abreast and understand technological developments that affect IP rights and that pose threats. I would facilitate access to the expertise of, for example, the Office of Science and Technology Policy, Energy, and Defense Departments. I would support the enforcement agencies by working with them to ensure that agencies have the information that is needed to develop enforcement tools that respond to evolving and nuanced infringement threats. I would also work to gain insights into marketplace developments through engagements with various stakeholders, including non-governmental organizations,

industry groups, unions and guilds, and consumer protection organizations to develop proactive strategic enforcement solutions.

3. **International Engagement** - Foreign-based and state-sponsored infringement have never posed as grave a threat to the work of American creators and inventors. While supporting the work of agencies such as the Trade Representative, State Department, Commerce Department, Copyright Office, and USPTO, I will prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies. I will work closely with those agencies and their partners to disrupt and prevent foreign-based and state-sponsored infringement. I will also support the existing programs that the State Department, Justice Department and other agencies have built with international law enforcement bodies, and I will ensure that the IPEC fully commits to the whole-of-government response we need to combat theft from foreign countries.
4. **Education** - I plan have an open line of exchange of content-protection related information between IP owners and stakeholders and the office of the IPEC. I will coordinate and partner with the relevant agencies, including the Patent and Trademark Office and the Copyright Office, to ensure that the Federal Government provides effective and up-to-date resources for the public, individual creators, inventors, and entrepreneurs. In addition, also working with the agencies I will aim to ensure that there are effective and timely mechanisms for sharing data and other relevant information between the private sector – from rights holders to enforcement vendors to professional groups – and the government, and in turn from the government back to the private sector, so that government enforcement agencies can more effectively respond and target their enforcement actions.

2. How do you plan to coordinate with the U.S. Trade Representative, the Department of Homeland Security, the State Department, and the Department of Justice to enforce American IP rights abroad?

Response:

I will support the initiatives of the U.S. Trade Representative, State Department, Commerce Department, Copyright Office, and USPTO, while

prioritizing the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of those international-facing agencies. I will also work closely with the agencies and their partners to disrupt and prevent foreign-based and state-sponsored infringement. I will support the existing programs that the State Department, Justice Department and other agencies have built with international law enforcement bodies, and continue to drive engagement with our foreign partners to prevent the flow of counterfeit goods into the U.S. I will ensure that the IPEC fully commits to the whole-of-government response we need to combat theft from foreign countries.

3. China is a particularly concerning rival in innovation. How will you prioritize protecting American innovations and innovators from intellectual property theft?

Response:

Foreign-based state sponsored theft, including and especially from China is one of the biggest threats to American intellectual property. If confirmed, I will proactively work to prevent IP theft from China and other international competitors and prioritize the protection of American creativity, innovation, jobs and American economic prosperity. I will encourage meaningful consequences for infringement; and take the lead on enforcement initiatives so that Americans will not suffer consequences when they assert their IP rights. I will support the work currently being done by foreign-facing agencies, namely USTR, State Department, Commerce Department, Copyright Office, and USPTO. I will also prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies.

4. I understand China has become increasingly more protective of intellectual property rights and more and more innovators are choosing to patent their inventions in China. Do you think this is a problem, and what solutions do you see?

Response:

America continues to be a leader in global innovation. I will work with the USPTO and relevant agencies to support a well-functioning patent system

and to ensure that American innovators choose to patent their inventions here. I will also be resolute in protecting the rights of US inventors and promote American business prosperity by protecting the IP rights of US companies that conduct business in China and in other foreign competitor countries.

5. By all accounts, artificial intelligence is about to disrupt the world as we know it. What strategies will you take to ensure American innovators and American companies are protected and encouraged to develop their ideas here?

Response:

AI is an emerging technology with multiple pathways to development and very many uses, some of which could lead to or facilitate infringement and make it easier to find counterfeits online. If confirmed, I will monitor the research being done by Federal agencies and departments and pay close attention to conversations and discussions taking place within the Senate Judiciary IP Subcommittee and other Committees. I will evaluate the research and information to determine how we can address AI issues while keeping Americans safe, protecting American jobs, and protecting and promoting American development, innovation, creativity, economic prosperity, and leadership in the AI race. While using the White House AI framework as a guide, I will also work with the agencies to create and implement an effective enforcement strategy.

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Deborah Ann Robinson, nominated to be United States Intellectual Property Enforcement Coordinator

I. Directions

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. Is racial discrimination wrong?

Response: Yes, and it violates a number of federal statutes.

2. Is it ever permissible for the government to discriminate against religious organizations or religious people?

Response: No.

3. Will you commit that you will not engage in racial discrimination when selecting and hiring staff, should you be confirmed?

Response: Yes.

4. Is it appropriate to consider skin color or sex when making a political appointment? Is it constitutional?

Response: Certain federal laws prohibit the consideration of skin color or sex when hiring. For instance, Title VII prohibits an employer from treating someone differently, including when applying for a job, because of skin color or sex. Political appointments are governed by Article II, Section 2 of the Constitution. That provision does not make reference to skin color or gender.

5. If a program or policy has a racially disparate outcome, is this evidence of either purposeful or subconscious racial discrimination?

Response:

A program or policy may have a racially disparate outcome regardless of the intent of practices or actions.

6. Do you believe that Congress should increase, or decrease, the number of justices on the U.S. Supreme Court? Please explain.

Response:

The size of the United States Supreme Court is set by statute, and it falls to Congress to make a determination as to whether the Court's size should increase or decrease. Regardless of the size of the Court, if confirmed to serve as the Intellectual Property Enforcement Coordinator, I will follow all of the Court's binding precedents.

7. In your opinion, are any currently sitting members of the U.S. Supreme Court illegitimate?

Response: No.

8. Is it appropriate for a prosecutor to publicly announce that they are going to prosecute a member of the community before they even start an investigation as to that person's conduct?

Response:

Every case has to be evaluated on a case-by-case basis and a prosecutor's actions are based on an individual assessment and circumstance. In my time as a prosecutor, I did not publicly announce that I would prosecute a member of the community before an investigation had commenced.

9. Like many other Biden nominees you have spoken frequently about so-called "implicit bias." On three occasions in 2019 you participated in a New York State Bar Association panel discussing implicit bias in the entertainment and sports industries. Similarly, in 2021, you moderated a panel discussion regarding implicit bias in the workplace.

a. Do you believe lawyers should undergo implicit bias and diversity training?

Response:

Yes, I think that lawyers can benefit from implicit bias and diversity training because training could allow them to avoid making favorable or unfavorable assessments without awareness and contrary to conscious values.

b. Does every person harbor implicit bias?

Response:

I don't know whether every person harbors implicit bias. I do not have the training to know the answer to that question.

c. Would you require law clerks or interns to take implicit bias training?

Response:

I am currently not a federal employee and so I do not know whether implicit bias training is a requirement for law clerks, interns or employees. I also lack the authority to create or enforce employment training.

10. In 2021 you contributed to the New York Bar Association Intellectual Property Section Diversity Plan, which committed to “enhancing the diversity and inclusion of its programming, membership and leadership to reflect the diversity of attorneys in the legal community and society overall.” Further, the diversity plan included a “goal of 50% diversity in IP Law Section leadership,” the repurposing of an existing scholarship as well as consideration of new scholarships and/or fellowships to “support diverse law students interested in the study and practice of IP law,” and the implementation of oversight, diverse speakers, and marketing and awareness tactics.

a. What demographics count toward being a “diverse law student”?

Response:

For the goal and purpose of the scholarship, diverse law student demographics are considered to include, but are not limited to age, ethnic origin, national origin, religion, race, color, gender, gender identity and expression, sexual orientation, and physical and mobile disability which aligns with the State Bar and IP Diversity Committee *Diversity Plans*. It is not my personal definition.

b. Are non-diverse students barred from applying to these new scholarships or fellowships?

No.

c. Is your plan for a 50 percent quota constitutional?

Response:

The New York State Bar Association (NYSBA) *Diversity Plan* does not contain a plan for a 50% quota in IP Section Leadership. The Diversity Plan for 50% IP Section Leadership is an IP Section goal.

**Questions from Senator Thom Tillis for Deborah Robinson, Nominee for
IPEC Coordinator**

- 1. I am proud to be a co-lead of the *Fighting Trade Cheats Act*, which is legislation to fight back against bad actors who engage in customs fraud. This bill seeks to stop illegal dumping and counterfeiting by foreign producers and US importers trying to evade US customs law.**

a. Do you agree that more must be done in order to stop foreign producers and US importers from evading US customs law?

Response:

If confirmed, I will work with and support the efforts of the Department of Homeland Security on the prohibition of foreign evasion of US customs law. I agree that we must be vigilant in enforcing US customs law and in preventing violations of that law, whether those violations stem from foreign or domestic actors.

b. Do you agree that a private right of action allowing US companies to sue US importers who are engaged in knowing trade violations would help to crack down on abuses?

Response:

I will work tirelessly with the relevant agencies, including the Department of Homeland Security, to ensure that our customs and trade laws are robustly and fairly enforced. My understanding is that congressional action is needed to create a private right of action along the lines that your question suggests. If confirmed, I will work with the Department of Homeland Security to better understand the current situation as well as issues relating to the creation of such a right of action.

- 2. Regardless of your views on specific solutions, do you share my concerns that customs enforcement is taking too long?**

Response:

I am not fully versed in the data on the timeliness of customs enforcement. I agree, however, that timely customs enforcement is of great importance. If

confirmed, I will work with the Department of Homeland Security regarding timely customs enforcement concerns.

3. What can be done either at the initial apprehension stage or during the administrative process to improve how quickly the US is able to resolve trade complaints?

Response:

I am not fully versed in the procedures at initial apprehension or in the administrative process regarding US resolutions of trade complaints. I agree, however, that timely resolutions to trade complaints are of great importance. If confirmed, I will work with the relevant agencies on resolving trade complaints in a timely manner.

4. How did your experience in the Executive Branch shape your views on customs enforcement, and how to fulfill the role of a judge on the Court of International Trade?

Response:

I have never worked in the federal government, and I am nominated to serve as the IPEC. To the extent this question is geared towards my time as a prosecutor, I would say that my experience conducting investigations, litigating criminal prosecutions and working with law enforcement has provided me with a specialized understanding of the importance and kind of work being done by US Customs and Border Protection and the National Intellectual Property Rights Coordination Center (IPR Center) to intercept and prevent counterfeits and potentially dangerous goods from entering into American homes and businesses. It has also made me aware of how vital it is to protect the US supply chain. If confirmed as the IPEC, I will support current domestic and international Custom and Border Protection IP enforcement programs and initiatives and work closely with Department of Homeland Security departments and other relevant agencies to ensure that they have access to information, data, training materials and resources to initiate IP enforcement actions and to effectively target counterfeits that pose threats to our national security, health and safety, and economic prosperity.

5. If confirmed, what specifically are some of the initial steps that you plan to take to ensure that IP rights are in fact enforced – both domestically and abroad – and that IP policy is prioritized across the government?

Response:

If confirmed I will prioritize the following initial steps to ensure that IP rights are enforced domestically and abroad:

- 1. Safety and Security** – First and foremost, my priority will be the safety and security of the American people. This means, among other things, supporting the enforcement agencies to ensure that infringing products such as counterfeit medicines, knock-off batteries, and poisonous health and beauty products stay out of American homes and businesses. I will also build on the work of previous IPECs to facilitate stakeholder-driven voluntary initiatives and programs, especially to prevent digital infringement. I will work to ensure that the government leads by example by employing effective mechanisms to keep its own supply chain and purchases free of infringing goods. I will also support the continuation of training programs and dissemination of training resources for federal and local law enforcement professionals and prosecutors.
- 2. Technology** - With the mass proliferation of advanced technologies in every device in our homes and workplaces, the theft of IP poses an enormous threat to our collective economic, national security, and health and safety interests. I would ensure that the IPEC office and the relevant enforcement agencies stay abreast and understand technological developments that affect IP rights and that pose threats. I would facilitate access to the expertise of, for example, the Office of Science and Technology Policy, Energy, and Defense Departments. I would support the enforcement agencies by working with them to ensure that agencies have the information that is needed to develop enforcement tools that respond to evolving and nuanced infringement threats. I would also work to gain insights into marketplace developments through engagements with various stakeholders, including non-governmental organizations, industry groups, unions and guilds, and consumer protection organizations to develop proactive strategic enforcement solutions.
- 3. International Engagement** - Foreign-based and state-sponsored infringement have never posed as grave a threat to the work of American

creators and inventors. While supporting the work of agencies such as the Trade Representative, State Department, Commerce Department, Copyright Office, and USPTO, I will prioritize the inclusion of consistent and meaningful IP enforcement discussions and considerations into the work of our international-facing agencies. I will work closely with those agencies and their partners to disrupt and prevent foreign-based and state-sponsored infringement. I will also support the existing programs that the State Department, Justice Department and other agencies have built with international law enforcement bodies, and I will ensure that the IPEC fully commits to the whole-of-government response we need to combat theft from foreign countries.

4. **Education** - I plan to have an open line of exchange of content-protection related information between IP owners and stakeholders and the office of the IPEC. I will coordinate and partner with the relevant agencies, including the Patent and Trademark Office and the Copyright Office, to ensure that the Federal Government provides effective and up-to-date resources for the public, individual creators, inventors, and entrepreneurs. In addition, also working with the agencies, I will aim to ensure that there are effective and timely mechanisms for sharing data and other relevant information between the private sector – from rights holders to enforcement vendors to professional groups – and the government, and in turn from the government back to the private sector, so that government enforcement agencies can more effectively respond and target their enforcement actions.

For example, there's much talk regarding establishing various AI frameworks and guidelines, but IP is unfortunately often times left out of the AI conversation. What are your thoughts on this?

Response:

AI is an emerging technology with multiple pathways to development and very many uses, some of which could lead to or facilitate infringement and make it easier to find counterfeits online. If confirmed, I will monitor the research being done by Federal agencies and departments and pay close attention to conversations and discussions taking place within the Senate Judiciary IP Subcommittee and other Committees. I will evaluate the research and information to determine how we address AI issues while keeping Americans safe, protecting American jobs, and protecting and promoting American

innovation, creativity, economic prosperity, and leadership in the AI race. While using the White House AI framework as a guide, I will also work with the agencies to create and implement an effective enforcement strategy.

- 6. Ending the domestic and international theft of IP property and online commercial piracy perpetrated by criminal organizations, regardless of whether these organizations are located within the U.S. or in countries such as China, is of great importance.**

The passing of the Protecting Lawful Streaming Act, which allowed the DOJ to bring felony charges against providers – not users – of illegal streaming services, made great inroads into addressing this issue. But more needs to be done.

In your opinion, what more can be done and if you are confirmed what will you commit to doing to help stem the tide of such piracy?

Response:

The DOJ has prosecutorial and enforcement authority; but one of my day one priorities will be to reach out to the relevant agencies and departments to learn about the challenges they are facing on the front lines of IP enforcement. Since the role of the IPEC is to coordinate, I will work collaboratively with those agencies and departments to ensure that they have access to information, data, training materials and resources to effectively target infringement threats and initiate enforcement actions. I will also keep in close and regular contact with you and other congressional leaders to provide updates on IPEC's enforcement efforts, to hear your ideas, and to work to try to address your concerns.

- 7. In addition to coordinating and planning on domestic and international enforcement of IP rights, the IPEC is empowered by statute to make recommendations to Congress for improvements in Federal IP laws.**

There are several areas that need improvement. In particular, current patent eligibility jurisprudence is undermining American innovation and is ceding leadership in key technology innovations to foreign adversaries such as China.

If confirmed, will you commit to work with Congress on getting sensible reforms to patent eligibility passed into law?

Response:

If confirmed, I will commit to work with Congress to ensure that America's IP laws promote innovation, creativity, American jobs, and economic prosperity.

Senate Judiciary Committee Hearing
“Nominations”
Questions for the Record for Deborah Robinson
to be Intellectual Property Enforcement Coordinator

QUESTIONS FROM SENATOR BLACKBURN

1. The role to which you have been nominated is essential to our nation’s intellectual property policy, especially at a time of increased global competition. This role is particularly important for Tennessee, which is home to one of the preeminent creative communities in the world. I have long championed the American Music Fairness Act (AMFA), which would ensure that artists and music creators receive fair compensation for the use of their songs on AM/FM radio. Specifically, the AMFA would require terrestrial radio broadcasters to pay royalties to American music creators when they play their songs. To protect small and local stations who fall under \$1.5 million in annual revenue and whose parent companies fall under less than \$10 million in annual revenue overall, the AMFA would allow them to play unlimited music for less than \$500 annually. Currently, the United States is the only democratic country in the world where artists aren’t compensated for the use of their music on the radio.

a. Please describe the importance of ensuring that artists are fairly compensated and that their intellectual property is protected.

Response:

Ensuring the protection of American gifts, brilliance and creations and the IP rights of inventors, scientists, authors, artists, farmers, and everyone across the whole of the IP landscape is of utmost importance for the protection of American jobs, innovation, creativity, and economic prosperity.

b. Do you agree that Congress should create a performance right for music played on the radio?

Response:

As you note, legislation has been introduced that would create a performance right for music played on the radio. It is also my understanding that legislative proposals to create such a right have been considered over the years. And, regarding such proposals, the Commerce Department and the US Copyright Office have expressed support in the past for the creation of a terrestrial radio performance right. I believe that this support was most recently expressed near the end of the prior Administration, in the joint letter that the then-PTO Director and the Register of Copyrights sent to Congress on January 19, 2021. I am not aware of whether this Administration has expressed a position on the pending legislation. Consistent with White House policy, I will work to support the priorities of this Administration.

- c. **Will you commit to working with me and other members of this committee to ensure that artists are treated fairly and that the American Music Fairness Act becomes law?**

Response:

I wholeheartedly will commit to working with you and all members of the Senate to ensure that artists are treated fairly. In addition, I will engage with the US Patent and Trademark Office and the US Copyright Office to get a better understanding of the issues relating to the creation of a terrestrial radio performance right. Consistent with White House policy, I will work to support the priorities of this Administration.