



Licensing Executives Society (U.S.A. and Canada), Inc.

A Member Society of the Licensing Executives Society International

July 21, 2016

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Securities Exchange Commission
Via email: rule-comments@sec.gov

Re: LES Comments on File Number S7-06-16

To Whom It May Concern,

The Licensing Executives Society (USA & Canada) Inc. (LES) is pleased to submit the accompanying comments to the Securities Exchange Commission's (SEC's) Concept Release No. 33-100064; 34-77599 and Request for Comment published in the Federal Register on April 22, 2016 (RFC). In particular, LES submits this response with regards to pages 67-71 of the RFC that pertain to disclosure requirements related to intellectual property information.

For more than 50 years, LES has been the leading global independent, professional organization that facilitates global intellectual property (IP) commerce through education, networking, standards development, and certification.¹ It is a member society of the Licensing Executives Society International, Inc. (LESI), with a worldwide membership of over 9,000 professionals across 32 national societies located in more than 90 countries. IP information transfer and educating business and policy leaders and other ecosystem stakeholders on relevant standards and best practices is paramount to LES. LES views the RFC as an opportunity to provide information to the public markets' compliance community related to important IP issues that impact public market registrants and their shareholders.

Thank you for the opportunity to comment on important regulatory matters that will affect the intellectual property community.

Please confirm receipt of the LES comments by email response to Jeff Whittle at

[REDACTED]

Sincerely,

Jeff Whittle
Chairman of the Board & President

¹ See <http://www.lesusacanada.org/?about>

Licensing Executives Society (USA & Canada), Inc.

Response to

SEC Concept Release and Request for Comment

Release No. 33-10064; 34-77599; File No. S7-06-16

Summary Response

The Licensing Executives Society (USA & Canada) Inc. (LES) submits this response to the Securities Exchange Commission's (SEC's) Concept Release No. 33-100064; 34-77599 and Request for Comment published in the Federal Register on April 22, 2016 (RFC). In particular, LES submits this response with regards to pages 67-71 of the RFC that pertain to disclosure requirements related to intellectual property information.

LES would like to make several points regarding the questions that the SEC has posed on disclosure of technology and intellectual property rights, required by 17 CFR Part 229, Item 101 (c) (1) (iv):

1. Intellectual property is at the heart of many publicly traded companies' ability to generate sales and profits on their products and services and on their licensing of their IP-based assets. It is the basis of their differentiated and defensible value in the marketplace.
2. Intellectual property is a strategic asset for many publicly traded companies (whether organically developed, licensed in, or purchased), and its existence, how it is managed, how it is used in transactions, when it is used in transactions, and the strategy for its use in the company's business are often closely guarded matters, because a company's differentiation, its ability to generate sales and profits, and its ability to manage risk may depend upon secrecy of these matters.
3. The greater the granularity required in IP disclosure, the greater the risk to companies' sales and profits and potentially to the economy generally, as a result of aggregate behavior changes throughout multiple industries that may be brought on by greater disclosure requirements; such changes could have negative consequences for the economy generally.
4. Greater disclosure concerning IP matters could put U.S. public companies at a significant competitive disadvantage with companies in other countries that do not have similar disclosure requirements, laying bare significant strategically sensitive information that may be exploited by foreign companies and governments.
5. While it may be true that in some cases material information may be revealed by broader IP disclosure requirements, the important question is whether we want to experiment with our publicly traded companies' financial health and our economy's health for investor benefits that are speculative.
6. It is often said that publicly traded companies' equity value is roughly 20 percent in tangibles and 80 percent in intangibles. So from this perspective, it may make sense to

look closely at the potential incremental investor value of broadened disclosure. But if this is done, it should be done with a clear understanding of the grave competitive and economic risks that may be encountered by broadening IP disclosure.

Recommendation

Because of the complexity of the IP value, risk, and disclosure issues, and because of the potential negative unforeseen consequences of additional regulation in the area of IP disclosure requirements on companies' individual competitiveness and costs, on whole industries' competitiveness and costs, and on the economy as a whole, LES recommends the Securities and Exchange Commission consider taking an alternative approach. Rather than regulation, LES suggests that the SEC consider using the voluntary consensus standards process (defined by the American National Standards Institute (ANSI) in the *ANSI Essential Requirements*) as a way to develop an approach to IP disclosure that balances the needs of all affected parties, including public companies of all sizes from a diversity of industries, investors, and government regulators, with input from IP valuation experts, economists, accounting standards people, and legal professionals.

In "OMB Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards in Conformity Assessment Activities," the White House has made clear its preference for the use of voluntary consensus standards:

- https://www.whitehouse.gov/sites/default/files/omb/inforeg/revised_circular_a-119_as_of_1_22.pdf

LES is currently entering the process with ANSI to become an ANSI-accredited standards development organization and expects to be accredited by the end of 2016. Four standards committees in the field of IP management have already been established, and a fifth is in formulation. A sixth committee could be established to develop consensus-based standards in the field of IP disclosure.

For further information on LES, please refer to the following website:

- <http://www.lesusacanada.org/>

For further information on LES Standards, please refer to the following webpage:

- <http://www.lesusacanada.org/?lesstandards>

For further information on ANSI, please refer to the following website:

- <https://ansi.org/>

And for information on the benefits of voluntary consensus standards, please refer to the following website:

- <http://www.standardsboostbusiness.org/>

Next Steps

LES would be happy to give a more detailed treatment of the issues raised by the questions in the RFC at a later date.

LES looks forward to working with the SEC in this important area and appreciates the opportunity to comment.

The Licensing Executives Society (USA & Canada) (LES), Inc.

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