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## The Legal Committee

Honorable Delegates,

It gives me great pleasure to welcome you to the Legal Committee at UTMUN 2013! I am looking forward to working with all of you on such crucial diplomatic and legal issues in this unique committee. I am really excited to witness a wonderful debate that you all will partake in, and I look forward to seeing you in February.

Firstly, my name is Dina Khashan; I am a first year humanities student at the University of Toronto aspiring to major in Ethics, Society and Law, and I hope to eventually go to law school. I will be the Director of your committee, which means my job is to maintain academic integrity, and provide you with this background guide of the issues that will be debated. I will be present during the debate to ensure that your own research is accurate and to provide any assistance regarding the content.

The issues to be debated are of extreme relevance to our society. For the past few months, the media has been occupied with the Apple vs. Samsung case of patent infringement, shedding light on current patent laws that conflict with competition laws and innovations. As a delegate, it's your duty to try and find a balance between conflicting laws with the purpose of stimulating creation and innovation.

Since we live in an age where internet-usage is inevitable, Internet censorship bills such as the SOPA and the CISPA have caused great controversy as to whether they will prevent piracy and protect information or they will infringe on internet freedom rights, grant access to confidential data and give room for censorship. Thus, consider your country's policy when thinking about what can or cannot be considered as human rights for the Internet.

Finally, organizations such as the Federal Aviation Administration, the United Nations' Committee on the Peaceful Uses of Outer Space, the Commercial Spaceflight Federation and the National Aeronautics and Space Administration have shown their support of suborbital vehicles and commercial space flying. As oppose to the several benefits of the potential space-flights markets, consider the drawbacks of permitting access to outer space along with the laws, obstacles and responsibilities that will come along in the future.

Please do not hesitate to contact me if you have any questions.

Best,

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## **Intellectual Property Patents**

### **Overview**

According to the World Intellectual Property Organization (WIPO), a patent is the exclusive right given to an invention, which could be a product or a process that is newly introduced to the public. A patent protects the invention from being made, used, distributed or sold without the consent of the patent owner, who has the right to stop patent infringement in court. Nevertheless, patents are granted for a limited period of time, usually 20 years; when the patent expires, the invention enters the public domain and will be available for commercial use by others. The patent owner holds the power to determine who may or may not use the invention, to grant permission or to license other parties to use the invention, and to sell the right to the invention.

### **Purpose**

One of the key purposes of patents is to incite economic and technological development in order to encourage competition in the market through financially motivating inventors. Patent laws aim at fostering innovation and preventing the imitation of patent products thus supporting competition policies that maintain a healthy market behavior. However, competition law aims at preventing undesired market behavior such as the abuse of market position; it can limit patent rights and prevent patent owners from abusing their rights. In order to maintain market competition, and prevent abuse of patent rights whilst enforcing the goals of patents, a balance must be found between patent rights and competition policy.

### **Criticism**

Additionally, the patent system has been criticized for hindering the progress of research and development (R&D), and technological advances. Technological innovation is increasing as rapidly as social and economic challenges rise up; consequently, the patent system must be flexible enough to continually adjust and reform in order to create a balance between the patent holder, new entrants to the market and the public. Cultivating R&D in new technologies is difficult because it requires the patent system to strategically respond to the constantly arising challenges from new technology. Thus, strengthening public R&D and promoting collaboration between the private and the public sector are crucial in supporting technological development.



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### **Measures Taken**

Moreover, in order to improve technology and stimulate innovation without infringing on patent owner rights, patent and technical information now can be accessed online as well as commercial and legal information. Many Intellectual Property (IP) offices and organizations have made their patent documents' databases accessible to the public having recognized the significance of publicizing technical information. Part of the World Trade Organization's (WTO) Final Act of the 1986 – 1994 Uruguay Round of trade negotiations is the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS); the agreement is accessible to the public through the WTO's website, which puts inventors in a position of knowledge of IP laws and expectations. Part II of the TRIPS agreement entails all rules and regulations concerning the availability and use of IP Rights (copyright rights, trademarks, patents, industrial designs etc.), and part III addresses the enforcement of IP Rights.

### **Recent Case**

The Apple vs. Samsung is a case that gained a lot of attention this year. Apple sued Samsung for 2.5 billion dollars for imitating seven features of the iPhone. In response, Samsung decided to strike back against Apple and file a patent suit against the iPhone 5, claiming that the smartphone infringes patents it holds. Samsung further clarified that they filed this lawsuit in order to “protect our innovations and intellectual property rights.” Nevertheless, the U.S. District Court ruled in favor of Apple Inc. After the ruling, Samsung said: “Today's verdict should not be viewed as a win for Apple, but as a loss for the American consumer. It will lead to fewer choices, less innovation, and potentially higher prices.”

There is a multifaceted and twisted relationship between innovation and imitation. An overreach in patents places restraints on innovation and preventing a trade-off between new and old innovations from happening.



Delegates should consider patent law and competition law in order to find a balance between the two in order to stimulate innovation without infringing on owner's rights, and to draw a line between what is considered as "imitation" and what is considered to be an innovation of an older product.



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## **Internet Freedom**

### **SOPA & PIPA – Internet Censorship Bills**

Earlier in 2012, the U.S. Congress attempted to pass two Internet censorship bills. One was the Stop Online Piracy Act (SOPA) in the U.S. House of Representatives, and the other was its counterpart in the Senate, the Protect IP Act (PIPA). Many saw these bills as means for the U.S. government to regulate the Internet and feared that they could threaten Internet freedom. The SOPA and PIPA would allow the U.S. attorney general the to prevent access to entire domains, and could easily infringe on the basic free speech rights. Many large corporations including Google, Facebook and Twitter were supportive of some aspects of the SOPA that would tackle “rogue” websites; however, they were oppose to some parts of the bill that require the monitoring of websites.

### **Democratic Stance**

The Obama administration, being an advocate of Internet Freedom, confirmed to “pass sound legislation this year that provides prosecutors and rights holders new legal tools to combat online piracy originating beyond U.S. borders.” Despite that the bills grant legal immunity to web-hosting companies, financial transaction providers and authority to corporation to terminate service to suspected violator of copyright laws, critics believed that the U.S. government and the “ruling” class are threatened by the spread of information and this is a way for them to establish control of the Internet. After WikiLeaks released information about the bills, an online uprising defeated SOPA.

### **CISPA – The new SOPA**

Shortly after the defeat of SOPA, the Congress starting working on the Rogers-Ruppersberger Cyber security bill, the Cyber Intelligence Sharing and Protection Act (CISPA), another bill that would threaten everyone’s digital rights. Once again, CISPA would grant the federal government and other corporate interests the power to monitor and censor online activity in the name of “cybersecurity.” A coalition of advocacy groups joined together to protect Internet Freedom including the Electronic Frontier Foundation, the American Library Association, the ACLU, and the Republican Liberty Caucus; the Electronic Frontier Foundation, which is an online advocacy group lead by Rainey Reitman, reported: “CISPA would let companies spy on users and share private information with the federal government and other companies with near-total immunity from civil and criminal liability. It effectively creates a ‘cybersecurity’ exemption to all existing laws.” He further stressed that the language of the bill is “dangerously vague”



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and that social networking sites will “pass information to the government without any judicial oversight.”

### **CISPA Excerpt**

The CISPA grants “access to any information regarding a ‘cyber threat’ to the Federal Government, private security agencies and private companies.” CISPA defines “cyber threat” as:

- Efforts to disrupt or destroy government or private systems or networks.
- Theft or misappropriation of private or government information, intellectual property, or personally identifiable information.

Realistically, CISPA permits, but does not require, Internet companies to submit confidential customer records and communication to the U.S. National Security Agency and other law enforcement agencies.

### **Opposing Views**

Despite the heavy criticism and fear of CISPA being a gateway for government to uncontrollably access data and censor information, it had more than 113 congressional sponsors, along with the support of over 3 million businesses in the domestic U.S. and the Chamber of Commerce listed over 800 supportive corporations. Democratic House members are warning that CISPA “does not include necessary safeguards” and are supportive of the anti-CISPA petition. Additionally, Republican Ron Paul warned that CISPA is the “latest assault on Internet freedom” and people should respond to CISPA as they have responded to SOPA three months earlier in January. In response, Rogers and Ruppertsberger clarified in a position paper that their bill is “necessary to deal with threats from China and Russia” and that it “protects privacy by prohibiting the government from requiring private sector entities to provide information.” They also stressed on the fact that “no new authorities are granted to the Department of Defense or the intelligence community to direct private or public sector cybersecurity efforts.” Senior Counsel to the House Intelligence Committee, Jamil Jaffer, also pointed out that the opposition ignored that a bipartisan committee majority approved the bill.





With regard to your country's policy, consider what constitutes "Internet freedom" and whether cyber security bills infringe on such rights.



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## **Space Law for Commercial Spaceflights**

### **Overview**

In August 2012, the Federal Aviation Administration (FAA) and Space Florida released a study that affirmed that the chance to travel into space is approaching sooner than people anticipated. They predict that in the next decade, more than 10,000 commercial spaceflights will be available to allow people to experience space travel and see the Earth. Suborbital Reusable Vehicles (SRVs) are “rockets designed to travel into space without achieving orbit.” So far, these vehicles have taken hundreds of test flights, and five new designs are expected to operate in 2013 and 2014. It is the responsibility of the Federal Aviation Administration to license, regulate and inspect SRVs.

### **Market Growth Potential**

In order to assist the industry, the FAA along with other government agencies are working to meet future SRV market demand; the ‘Ten Year Forecast of Suborbital Reusable Vehicles’ is a study conducted by the Federal Aviation Administration Office of Commercial Space Transportation and Space Florida aimed at analyzing the emerging SRV markets, and indentifying the factors of growth. The study examines what would occur if the SRV market significantly grows, moderately grows or does not grow at all through three scenarios.

### **Study Findings: The Three Scenarios**

The Baseline Scenario focuses on current consumer demand and research budged, with daily flights bring in about 600 million dollars over 10 years; it finds that over a 10-year period, the demand will increase from 373 seats in the first year of operation to 533 seats in the 10<sup>th</sup> year for a ten-year total of 4,518 seats.

The Constrained Scenario focuses on a significant drop from current demand, with weekly flights bringing in about 300 million dollars over 10 years; it finds that over a 10-year period, the demand will increase from 213 seats in the first year to merely 255 seats in the 10<sup>th</sup> year.

The Growth Scenario focuses on an increase in demand, which is a result of the successful marketing and research effect with daily flights bringing in more than 1.6 billion dollars over 10 years; it finds that over a 10-year period, the demand for seats will increase from 1,096 in the first year to 1,592 seats in the 10<sup>th</sup> year, equating to 13,134 seats over 10 years.



### **Study Findings: Eight Markets**

According to the study, SRVs can offer opportunities for commercial human spaceflight (space tourism), basic and applied research, educational opportunities, aerospace technologies testing and demonstrations, media and public relations, satellite deployment, point-to-point transportation, and remote sensing. The study further examines segments of the each market to portray the customer demand; commercial human spaceflight is the largest potential for SRV markets and individuals and corporate clients are the primary customers. Basic and applied research is the second largest market and it supports the demand for experiments and studies in biological and physical research in atmospheric science.

Moreover, education is expected to be the fastest growing market, as it will offer instructional missions opportunities in schools and universities. Aerospace technology test and demonstration will allow technologies to rest gravity, radiation, heat and vacuum environments. As for media and public relations, the study states that access to space has a commercial advantage to film and television, and satellite deployment will allow the launching of small satellites from SRVs to occur. Finally, the study predicts that SRVs will be used for point-to-point transportation, which entails the transportation of passengers, troops or packages in SRVs at a high velocity.

### **United Nations on Space Law**

The United Nations' Committee on the Peaceful Uses of Outer Space is the only international forum created for the development of international space law. The Committee created five sets of legal principles and law that govern space-related activities. The five treaties are as follows:

- The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies (the Outer Space Treaty)
- The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (the Rescue Agreement)
- The Convention on International Liability for Damage Caused by Space Objects (the Liability Convention)
- The Convention on Registration of Objects Launched into Outer Space (the Registration Convention)
- The Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the Moon Agreement)



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Basically, these treaties entail rules and regulations regarding: “the non-appropriation of outer space by any one country, arms control, the freedom of exploration, liability for damage caused by space objects, the safety and rescue of spacecraft and astronauts, the prevention of harmful interference with space activities and the environment, the notification and registration of space activities, scientific investigation and the exploitation of natural resources in outer space and the settlement of disputes.”

A mutual notion in the five treaties is that any activity carried out in space must be aimed towards the well-being of all countries and humankind.

### **Commercial Spaceflight Federation**

The Commercial Spaceflight Federation is a private spaceflight industry group that formed in 2005; their mission is as follows: “To promote the development of commercial human spaceflight, pursue ever higher levels of safety, and share best practices and expertise throughout the industry.” In other words, they aim to make commercial space flying safer. The CSF is succeeding in creating thousands of high-tech jobs and preserving U.S. leadership in aerospace technology. With over 700 scientists participating in workshops and major conferences with suborbital vehicle developers, the organization has expressed its enthusiasm and optimism in regards of commercial space flying.

Moreover, impressed with the potential of commercial suborbital spacecraft, the National Aeronautics and Space Administration (NASA) formed the NASA Commercial Suborbital Research Program at NASA Ames Research Center and NASA Dryden Flight Research Center. The Commercial Crew Program is an initiative aimed at developing commercial capabilities in order to transport crew to the International Space Station in Low Earth Orbit; according to NASA’s FY2011 budget, the program requires the investment of \$6 billion over 5 years. The benefits of Commercial Crew entail the U.S. becoming less dependent on Russia to transport American astronauts following Space shuttle retirement, the enhancement of the utilization of International Space Station, and the creation of thousands of jobs.



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## Closing Remarks

I hope you find this background guide useful. It is meant to serve as an introductory tool to provide you with a summary of each of the issue and to serve as a starting point for you to begin your research. Whilst researching, remember to always bear in mind your country's policy on the issues. Also, I advise each of you to read through the treaties involved and know in advance your country's stance on them in order to make the debate effective. The topics can spark an interesting and powerful debate, and I look forward to seeing your passion and skills during the conference.

Without further adieu, I will provide you with vital links to treaties and other significant documents that will help enhance your research and deepen your understanding of the topics.

### Topic 1: Intellectual Property links

Agreement on Trade-Related Aspects of Intellectual Property Rights by the World Trade Organization

[http://www.wto.org/english/tratop\\_e/trips\\_e/t\\_agm0\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm)

### Topic 2: Internet Freedom

CISPA Bill Summary & Status

<http://thomas.loc.gov/cgi-bin/bdquery/z?d112:h.r.03523:>

Letter opposing CISPA signed by 18 Democratic House members

<http://chsdemocrats.house.gov/sitedocuments/cispa.pdf>

The CISPA official documents presented by the U.S. House of Representatives – Permanent Select Committee on Intelligence (entails the bill and amendments, press materials, and letters of support)

<http://intelligence.house.gov/bill/cyber-intelligence-sharing-and-protection-act-2011>

### Topic 3: Space Law for Commercial Spaceflights

United Nations' five Treaties and Principles on Space Law

<http://www.oosa.unvienna.org/oosa/SpaceLaw/treaties.html>

Commercial Spaceflight Federation Regulatory Topics



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<http://www.commercialspaceflight.org/policy/regulatory-topics/>

Once again, do not hesitate to contact me if you have any questions/concerns!  
GOOD LUCK! ☺