

Legislative/Governmental Affairs update

Ellen McLaren, Director of the Office of Governmental Affairs

Kim Alton, Deputy Director of the Office of Governmental Affairs

November 16, 2022

Patent Public Advisory Committee meeting



UNITED STATES
PATENT AND TRADEMARK OFFICE ®

Legislative activity

117th Congress

- IP related bills
 - The Patent Examination and Quality Improvement Act of 2022 (S. 4704)
 - The Interagency Patent Coordination and Improvement Act of 2022 (S. 4430)
 - The Patent Trial and Appeal Board Reform Act of 2022 (S. 4417)
 - The Inventor Diversity for Economic Advancement (IDEA) Act of 2021 (S. 632)
 - The Patents for Humanity Improvement Act (H.R. 5796/S. 4210)
 - The Patent Eligibility Restoration Act of 2022 (S. 4737)

Congressional activity

117th Congress

- Congressional hearings
 - Senate Judiciary Subcommittee on Intellectual Property: *The Patent Trial and Appeal Board: Examining Proposals to Address Predictability, Certainty, and Fairness* (June 22, 2022)
 - House Judiciary Subcommittee on Court, Intellectual Property, and the Internet:
 - *The Patent Trial and Appeal Board After 10 Years: Impact on Innovation and Small Businesses* (June 23, 2022)
 - *The Patent Trial and Appeal Board After 10 Years, Part II: Implications of Adjudicating in an Agency Setting* (July 21, 2022)
 - While the USPTO did not provide a witness, the Director submitted a letter to the House Judiciary Subcommittee outlining recent and ongoing initiatives at the PTAB.

Congressional activity

117th Congress (cont.)

- Congressional inquiries
 - Discretionary denial of institution of inter partes review proceedings and potential abuses of post-grant proceedings
 - Drug pricing issues, including those relating to coordination between the USPTO and the FDA
 - The accuracy of the data used in discussions around the role patents play in drug pricing
 - Continuations practice
 - Whether a patent small claims court should be established
 - Whether the U.S. should establish a unified intellectual property office
 - The role and effect of non-fungible tokens on the U.S. intellectual property system



Preview for the 118th Congress

- **Potential legislative issues:**
 - Continued debate on Section 101 reform
 - Continued debate on PTAB reform
 - Continued debate on drug pricing
- **Potential subcommittee changes**
 - Retirement of Sen. Leahy, Chair of Senate IP Subcommittee



Thank you!

Ellen McLaren

ellen.mclaren@uspto.gov

Kim Alton

kimberley.alton@uspto.gov

Office of Governmental Affairs

571-272-7300

www.uspto.gov