Patent Public Advisory Committee Meeting

Legislative Update

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Director, Office of Governmental Affairs
August 15, 2013
Congressional Hearings:

**Highlight on IP-related hearings** (USPTO not testifying):

**Patents**


- “Patent Reform implementation and New challenges for Small Businesses” – May 15, 2013, House Committee on Small Business

Congressional Hearings (cont.):

**Copyrights**

- "The Satellite Television Law: Repeal, Reauthorize, or Revise?" June 12, 2013, House Energy and Commerce, Subcommittee on Communications and Technology

- In front of House Judiciary, Subcommittee on Courts, Intellectual Property and the Internet:
  - “Unlocking Consumer Choice and Wireless Competition Act” – June 6, 2013
  - "Innovation in America: The Role of Copyrights" - July 25, 2013
  - "Innovation in America: The Role of Technology" - August 1, 2013

- Additional Hearings expected in September.
Various proposals/approaches to address abusive patent litigation:

**White House Announcement** (June 4, 2013):

**5 Executive Actions (4 of which USPTO is implementing):**

2. Tightening Functional Claiming.
3. Empowering Downstream Users.
4. Expanding Dedicated Outreach and Study.

**7 legislative recommendations:**

1. Require applicants to disclose the “Real Party-in-Interest”
2. Permit more discretion to the court to award fees to prevailing parties
3. Expand the PTO’s Transitional Program for Covered Business Methods
4. Protect off-the-shelf use by consumers and businesses
5. Change the ITC standard for obtaining an injunction
6. Use demand letter transparency to help curb abusive suits
7. Ensure the ITC has adequate flexibility in hiring qualified Administrative Law Judges
Various proposals/approaches to address abusive patent litigation:

**Congressional Activity (113\textsuperscript{th} Congress) - Various Introduced bills or Circulated Drafts:**

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Title</th>
<th>Sponsor(s)</th>
<th>Date Introduced</th>
<th>Provisions</th>
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<tr>
<td>H.R. 2766</td>
<td>“Stopping the Offensive Use of Patents Act (STOP Act)” (Reps. Issa, R-CA-49, Chu, D-CA-27) - introduced 7/22/2013</td>
<td>Expanding PTO’s Transitional Proceeding for Covered Business Methods</td>
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113th Congress (Miscellaneous IP Legislation)

**Budget**

**Patents**
- S. 1478, e911 services and patent infringement (Sen. Cardin, D-MD) -- introduced: 8/1/2013

**Trademarks**

**Copyright / Cellphone Unlocking**

**Trade Secrets** – creating a private right of action against theft
Counterfeiting & Designs


- Promoting Automotive Repair, Trade and Sales (PARTS) Act
  - **S.780** (Sen. Whitehouse, D-RI) – introduced: 4/23/2013

Cyber Security

- **H.R.624** (Rogers, R-MI-8) – introduced: 2/13/2013
- **S.21** (Rockefeller, D-WV) – introduced: 1/22/2013
- **S.884** (Sen. Levin, D-MI) – introduced: 5/7/2013
- **Executive Order**, “Improving Critical Infrastructure Cybersecurity” (2/12/2013)

Generic Drugs

- **S.214**, “Preserve Access to Affordable Generics Act” (Klobuchar, D-MN) – introduced: 2/4/2013

Miscellaneous

Other Considerations for the 113th Congress

- **Green Paper on, “Copyright Policy, Creativity, and Innovation in the Digital Economy”**
  - Multi-stakeholder process and outreach efforts beginning this month

- **Satellite Offices**
  - Continued interest from Capitol Hill
  - Local support for outreach and education (in Silicon Valley, Denver and elsewhere)

- **International Treaties – implementing legislation**
  - Beijing Treaty on Audiovisual Performances
  - Marrakesh Treaty on the Visually Impaired

- **Nominations (confirmed):**
  - The Hon. Penny Pritzker – Secretary of Commerce (97-1)
  - Ray Chen – U.S. Court of Appeals for the Federal Circuit (97-0)

- **Partnership with the Smithsonian Institute (2 highlighted)**
  - The Innovation Pavilion at the Arts and Industry Building
  - “Build a Better Mousetrap” Hill Staff tour (July 11)

- **USPTO Outreach to Hill Staff**
  - Individual Staff Meetings with Judiciary and New Members, Congressional Caucuses
  - Preparing for Telework meetings with Oversight Committees
  - “Day in the Life” Visits for Congressional Staff (June 21)
  - “Everything You Ever Wanted to Know About IP in China (and More)” at USPTO (Aug. 7)
Thank you.

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