Legislative Update

Trademark Public Advisory Meeting (TPAC)
August 19, 2011

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U.S. Patent and Trademark Office (USPTO)
Selected Bills Introduced Thus Far During the 112th Congress:

  - Contains fee setting authority and funding provisions for USPTO
  - Passed House on June 23rd by vote of 304-117
  - Senate expected to vote on the House bill shortly after August recess

- Implementation Website Created – [www.uspto.gov/AmericaInventsAct](http://www.uspto.gov/AmericaInventsAct)
S. 968 - Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act of 2011 ("Protect IP" Act) (Sen. Leahy)
- Would provide DOJ with tools to expeditiously crack down on websites set up to profit from infringement
- Marked up on May 26th by Judiciary Committee
- House expected to introduce companion bill shortly

- House Judiciary Hearing held on July 15, 2011. Witnesses testified that legislation is necessary to protect small & medium design companies from competition from “knock offs”
- Concerns raised about a potential for excessive or frivolous litigation
- Bill provides limited protection and addresses concerns raised about prior legislative proposals.
Domain Names / ICANN gTLDs:

- June 2011, ICANN voted to end most restrictions on suffixes, the biggest change to the system since it was created in 1984.
- House Judiciary Hearing held on May 4, 2011.
- Committee Members expressed concerns about ICANN’s proposal – potential for fraud, consumer confusion, and IP theft.
Implementing Telework Flexibility:

- Pursuant to Public Law 111-292 (H.R.1722, 111th Congress), the Telework Enhancement Act of 2010, USPTO is in process of implementing new telework flexibilities.

- USPTO Oversight Committee developed operating procedures to ensure reasonable technological alternatives used before requiring employee travel.

- MOU with USPTO Unions signed on July 5, 2011.

- Implementation begins 30 days after GSA approval transmitted to Congress with Cost Benefit Analysis.
USPTO Funding:

- USPTO currently operating under the Full year Continuing Appropriations Act, 2011 (Public Law 112-10) signed by the President on April 15, 2011; USPTO projects that collections will exceed this by approximately $80 million.

- Spending in FY2011 limited to $2.09 billion; difficult decisions made relating to patents, nationwide workforce, IT improvements, and others. Trademark activities unaffected.

- FY 2012 House CJS Committee appropriates $2.71 billion. Awaiting action by Senate this Fall.

- Patent Reform legislation would enable the agency to set its own on fees (both patents and trademarks) and assesses 15% surcharge on patent fees.
Thank you.

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