Trademark Public Advisory Committee Meeting

Legislative Update

Dana Robert Colarulli
Director, Office of Governmental Affairs
June 20, 2014
Activity on Copyright Issues

DOC/USPTO Green Paper: “Copyright Policy, Creativity, and Innovation in the Digital Economy”

- **Public roundtables** on digital copyright issues.
  - Roundtable held on May 21 in Nashville, TN; additional roundtables in Cambridge, MA, Los Angeles, CA, and Berkeley, CA scheduled for next 2 months
  - Goal: Facilitate an interactive discussion that enables task force to make recommendations

- **Multi-stakeholder forums** on DMCA Notice and Takedown System
  - Forum held on March 20 in Alexandria, VA; May 8 in Berkeley, CA; and June 20 in Alexandria, VA. Additional forums scheduled throughout year alternating between Alexandria, VA and the west coast
  - Forum for consensus-building among stakeholders with the aim of producing an agreed outcome by the end of 2014

Copyright-related Legislation


- **S. 2454**, STELA Reauthorization Act (Sens. Leahy, D-VT & Grassley, R-IA); introduced 6/10/14, hearing held in Judiciary Committee on 3/26/14
Recent Hearings

- June 2, 2014 - House Judiciary Committee field hearing in New York City on Section 109 of the Copyright Act (First Sale under Title 17)
- House Judiciary Committee, Subcommittee on Courts, Intellectual Property and the Internet, hearing on June 10 on Music Licensing under Title 17, Part I
- House Judiciary Committee, Subcommittee on Courts, Intellectual Property and the Internet, hearing on June 25 on Music Licensing under Title 17, Part 2

International Treaties – Implementation

- Beijing Treaty on Audiovisual Performances (adopted June 26, 2012)
- Marrakesh Treaty for the Visually Impaired (adopted June 28, 2013)

Treaty Negotiations

- WIPO Proposed Treaty for the Protection of Broadcasting Organizations (ongoing)
Activity on Patent Issues:
Proposals Address Abusive Patent Litigation

White House Activity
- June 4, 2013 — 5 executive actions and 7 legislative recommendations
- February 20, 2014 - White House event -- 3 new executive actions announced

Congressional Activity
- S. 1720, the “Patent Transparency and Improvements Act of 2013” (Leahy, D-VT)
- Several other bills introduced; Numerous hearings and staff briefings held
- Parallel efforts at more “narrowly tailored” reform on demand letters and ITC

USPTO Activity
- Meetings with various stakeholders
- Increased engagement with House and Senate Judiciary Staff
- Implementation of Executive Actions

State of the Union – January 28, 2014
“..let's pass a patent reform bill that allows our businesses to stay focused on innovation, not costly and needless litigation.”
Congressional Activity on Trademark Issues

Internet Corporation for Assigned Names and Numbers (ICANN)
- House FY 15 CJS Appropriations – prohibiting NTIA funding for relinquishing oversight

Marks consisting of flag, coat of arms, and other official seals
- H.R. 3713 - “To amend the Trademark Act of 1946 to provide for the registration of marks consisting of a flag, coat of arms, or other official insignia of the United States or of any State or local government” (Rep. Jeffries, D-NY-8, introduced 12/12/2013)
- S. 1816, Sen. Klobuchar, D-MN (introduced 12/12/2013 - Senate Companion)

Non Disparagement of Native American Persons (“Redskins Trademark”)
- H.R. 1278 - “Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act of 2013” (Faleomavaega, D-AS) & 21 cosponsors (introduced 4/15/2013)
- Letter from 50 Senators to NFL Commissioner Goodell (5/22/2014)
Trade Secrets

- **Legislation:**
  - S. 2267 – “Defend Trade Secrets Act” - Senators Coons (D-DE) and Hatch (R-UT), introduced 4/29/14 (*Civil Private Right of Action for “Misappropriation”*)
  - S. ____ (Draft Legislation) – Senator Whitehouse (D-RI), circulated ____ (*Enhancing Criminal Penalties*)

- **Hearings:** May 13 - Senate Judiciary Subcommittee on Crime and Terrorism held a hearing “Economic Espionage and Trade Secret Theft: Are Our Laws Adequate for Today’s Threats?”

- **USPTO Engagement:** Staff have met with bill sponsors and other Senate Judiciary Committee staffers to discuss bills and provide technical drafting assistance.
Other Considerations for the 113\textsuperscript{th} Congress

- **Opening USPTO Satellite Offices**
  - Denver to open June 30!
  - Briefings conducted with individual delegations
  - Local support for outreach and education (Detroit, Silicon Valley, Denver, Dallas)
  - Start-up listening tours in Silicon Valley and Denver area

- **International Treaties – implementation**

- **USPTO Funding**
  - Both House passed bill (May 30) and approved Senate Full Appropriations Committee bill (June 5) for FY 2015 would fund USPTO at same level that Congressional Budget Office projected USPTO fee collections and above President’s request level
  - Positive Report language supportive of USPTO operations and programs

- **Capitol Hill Awareness and Outreach:**
  - Meetings with Committee Members/Staff and Caucuses
  - Providing assistance for various StaffDels and CoDels to China and elsewhere
  - Trademark Expo (Oct. 2014) – *pre-Expo event on Capitol Hill scheduled*
Congressional Snapshot:
Bills introduced/enacted in Recent Congresses

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Thank you.

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