

# USPTO Legislative Challenges:

## *111<sup>th</sup> Congress “Wrap-up” and Navigating the Lame Duck*

Patent Public Advisory Meeting (PPAC)

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## 111<sup>th</sup> Congress “wrap-up”

*At the end of the 111<sup>th</sup> Congress, USPTO’s primary legislative challenges continue to be:*

- ↪ USPTO funding (Annual Appropriations & Judiciary Bills)
- ↪ Patent Reform legislation
- ↪ Other technical and substantive law changes



## 111<sup>th</sup> Congress “wrap-up”

### Successes –

*IP bills signed into law during the 111<sup>th</sup> Congress that benefit USPTO:*

- **Trademark Technical and Conforming Amendment Act of 2010** (S. 2968, signed into law as P.L. 111-146, March 17, 2010)
- **Supplemental Appropriations for the USPTO** (H.R. 5874, signed into law as P.L. 111-224, August 10, 2010)
- **Telework Enhancement Act of 2010** (H.R. 1722, signed into law as P.L. 111-\_\_\_, pending Presidential signature)
- **Copyright Cleanup, Clarification, and Corrections Act of 2010** (S.3689, signed into law as P.L. 111-\_\_\_, pending Presidential signature)



## 111<sup>th</sup> Congress “wrap-up”

### Trademark Technical Corrections (highlight: “TM Bullies” Study)

- Provision included in the TM technical Corrections Act; amended by copyright corrections passed by Senate 11/20/2010.
- Congressionally directed study on trademark owner litigation tactics; to be completed by March 17, 2011.

### Supplemental Appropriations for the USPTO

- Provided \$129 Million in supplemental appropriations to USPTO, extended backlog reduction efforts, provided some protection from cuts otherwise necessary under a continuing resolution, and enabled access to more of actual fee collections.

### Telework Legislation

- Includes provisions to enhance telework throughout the government as well as a USPTO-specific provision.
- Provides USPTO flexibility to expand its current telework program; specifically, to waive the “twice a bi-week” requirement.



## 111<sup>th</sup> Congress “wrap-up”

### Pending as the 111<sup>th</sup> Congress Ends (Selected Key bills):

- Patent Reform Legislation (S. 515 / H.R. 1260)
- USPTO Funding Stabilization Bill (H.R.5322)
- “4 Easy Pieces” (Administration Proposals, not introduced)--
  - ↪ Technical correction to clarify funding for GIPA programs
  - ↪ Technical correction to clarify pay scale for Administrative Law Judges
  - ↪ Implementing legislation for the Hague Agreement on Designs
  - ↪ Implementing legislation for the Patent Law Treaty
- Performance Rights Act (S.379); DOC views letter filed April 1, 2010
- IP Attaches (H.R.2410, Draft House and Senate Bills)



## 112<sup>th</sup> Congress Outlook

- Republican Majority in the House; structural changes possible to House Judiciary Committee
- *Presumptive*\* Committee Leadership in the 112<sup>th</sup> Congress:

### **U.S. House of Representatives**

**Rep. Lamar Smith** (R-Texas-21), *Chairman*  
**Rep. John Conyers** (D-Michigan-14), *Ranking Member*

### **U.S. Senate**

**Sen. Patrick Leahy** (D-Vermont), *Chairman*  
**Sen. Chuck Grassley** (R-Iowa), *Ranking Member*

*\* Appointments will be made in January*

- Patent Reform is likely to move forward quickly in both Houses; Early indications from Chairman Smith that House will work closely with the Senate to pass a bill in the 112<sup>th</sup> Congress



## FY 2011 Appropriations – An Uncertain Fate

**Current Continuing Resolution (CR) expires tomorrow (Dec. 3).**

### **Possible Outcomes of the Lame Duck Session:**

- Limited CR (to Dec. 17? Longer?)
- Year-Long CR
- Omnibus Appropriations Bill

### **USPTO has requested an “anomaly” to be added to any future CR:**

- 15% patent surcharge as proposed in the President’s Budget
- A “buffer” sufficient to allow USPTO to access all of its projected fee collections in FY 2011



***Thank you.***  
*(and a Happy New Congress to all!)*

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