

Patent Public Advisory Committee Meeting USPTO Legislative Challenges



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Legislation: Patent Reform

- **H.R. 1249 – The “Leahy-Smith” America Invents Act of 2011 (Patent Reform)**
 - 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

Leahy-Smith America Invents Act Implementation - Windows Internet Explorer provided by USPTO

http://www.uspto.gov/AmericaInventsAct

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An Agency of the Department of Commerce

Home | Help | Site Index | Contact Us

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About USPTO | Patents | Trademarks | IP Law & Policy | Products & Services | Careers | Inventors | News & Notices | eBusiness/Alerts | FAQs | For Kids

Home Page » Patents » Initiatives & Events

Patent Process
Patent Classification
Patent Forms
Statistics
Electronic Business Center
Patent Laws, Regulations, Policies & Procedures
Resources and Guidance
Office of Data Management
Announcements

Initiatives & Events

- Biotechnology / Chemical / Pharmaceutical Conferences
- Patent Cooperation Treaty
- Patent Prosecution Highway

International Protection
Employee Locator
Contact Patents

Leahy-Smith America Invents Act Implementation

Under Secretary of Commerce for Intellectual Property and Director of the USPTO David Kappos (right) talks with House Judiciary Committee Chairman Lamar Smith after Kappos' House testimony March 30.

The Leahy-Smith America Invents Act (AIA), H.R. 1249, passed by the U.S. House of Representatives on June 23, 2011, and currently pending before the U.S. Senate, proposes significant and far-reaching changes to U.S. patent law. Although patent reform legislation is still pending before Congress and neither its passage nor enactment can be presumed, the USPTO would like to proactively engage with the public to best prepare for the timely and effective implementation of the legislation should it be enacted.

If this legislation is enacted, the USPTO will need to undertake a series of rulemakings to implement the Act. Because several provisions of the AIA require implementation within a period of one year from enactment, expeditious rulemaking proceedings will be required. Given this tight time frame, preliminary input from our stakeholders and the public on implementation of the key provisions would facilitate the process even before the legislation has been enacted.

Therefore, we are establishing this website to provide information to our stakeholders and the public on the legislation and

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Legislation

Other selected IP legislation:

○ 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 and right holders with tools to expeditiously crack down on foreign websites created to peddle counterfeits goods and pirated content
- Marked up and unanimously passed by Judiciary Committee on May 26th
- House expected to introduce companion bill shortly

○ H.R. 2511 - Innovation Design Protection and Piracy Prevention Act (Rep. Goodlatte)

- Establishes copyright protection for original fashion designs
- House Judiciary Hearing held on July 15, 2011. Witnesses testified that legislation is necessary to protect small & medium fashion 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.



USPTO Funding & FY 2011 Appropriations

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 was limited to \$2.09 billion forcing some difficult decisions made relating to patents, nationwide workforce, IT improvements, and others.
- FY 2012 House CJS Committee would appropriate \$2.71 billion. Awaiting action by Senate this Fall and preparing for possible Continuing Resolution.
- Patent Reform legislation would enable the agency to set its own on fees (both patents and trademarks) and assesses 15% surcharge on patent fees.



Update on Implementing Telework Legislation

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.



Thank you.

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