

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

- **H.R. 4772**, Respecting Senior Performers as Essential Cultural Treasures (R-E-S-P-E-C-T) Act (Rep. Holding, R-NC-13, introduced 5/29/2014)
- **H.R. 4572**, the Satellite Television Access (STELA) Reauthorization Act of 2014 (Rep. Walden, R-OR-2, introduced 5/6/14); passed full Energy & Commerce Committee 5/8/14
- **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



Activity on Copyright Issues (cont.)

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

- H.R. 3309, “The Innovation Act” (Goodlatte, R-VA-6) – passed Dec. 5, 2013
- 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)

- ↵ **H.R. 4342** - “Domain Openness Through Continued Oversight Matters (DOTCOM) Act of 2014” (Rep. Shimkus, R-IL-15, introduced 3/27/2014); passed Energy & Commerce (5/8/14)
- ↵ 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)



Miscellaneous Congressional Activity

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 113th 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**

- ↗ The Geneva Act of the Hague Treaty on Industrial Designs

○ **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*

<u>Congress</u>	<u>Dates</u>	<u>Introduced</u>	<u>Enacted</u>
☑ 112 th	2011-2012	10,445	283
☑ 111 th	2009-2010	10,668	383
☑ 110 th	2007-2008	11,071	308
☑ 109 th	2005-2006	10,558	482
☑ 108 th	2003-2004	8,466	498



Thank you.

Dana Robert Colarulli
Director
Office of Governmental Affairs
U.S. Patent and Trademark Office
(571) 272 -7300
dana.colarulli@uspto.gov

