Patent Public Advisory Committee
Quarterly Meeting

Legislative/Governmental Affairs Update

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Director, Office of Governmental Affairs
November 3, 2016
Hearings where USPTO Testified in the 114th Congress
First Session

USPTO Director Confirmation Hearing
• Senate Judiciary Committee, 2nd Confirmation Hearing – 1/21/2015
• Statement by USPTO Director Michelle K. Lee
• A first hearing was held in the 113th Congress under the Democratic Chairman, Sen. Leahy (D-VT)

Legislative Hearing on H.R. 9, the “Innovation Act"
• House Judiciary Committee – 4/14/15
• Testimony by USPTO Director Michelle K. Lee
• A second panel includes witnesses from Yahoo!, Eli Lilly & Co, Salesforce.com and BIO
Hearings where USPTO Testified in the 114th Congress

Second Session

“International Antitrust Enforcement – China and Beyond”
- House Judiciary, Subcommittee on Regulatory Reform, Commercial and Antitrust Law – 6/7/16
- Testimony by USPTO, FTC, U.S. Chamber, and an academic
- USPTO testimony by China team Senior Counsel Mark Cohen

“Counterfeits and Their Impact on Consumer Health and Safety”
- Senate Judiciary Committee – 4/27/16
- Testimony by DHS/ICE, USPTO and private sector witnesses
- USPTO testimony by former Trademark examiner and former IP Attaché, Conrad Wong
- Impact of counterfeit goods and enforcement/educational efforts

“Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property”
- House Judiciary, Subcommittee on Courts, Intellectual Property and the Internet – 2/11/16
- Panel 1: Testimony by Commissioner Denison and Department of State; Panel 2: private sector witnesses
- Discussed USPTO’s role with respect to the renewal of the Havana Club trademark registration
- Appropriations Activity – we are monitoring provisions in bills that attempt to address this issue
Hearings where USPTO Testified

Second Session

“Oversight of the U.S. Patent and Trademark Office”

- House Judiciary, Subcommittee on Courts, Intellectual Property and the Internet – 9/13/16
- Testimony by USPTO U/S and Director Michelle K. Lee
- General Agency Oversight; last such hearing in July 2014

Darrel Issa (R-CA-49), Chairman
Jerry Nadler (D-NY-10), Ranking Member

Topics Covered Included:

- USPTO Workforce Management & Telework Efforts / DOC IG Reports on Time and Attendance
- Enhanced Patent Quality Initiative (EPQI) / Recent GAO Reports
- AIA Implementation (importance of PTAB; financial stability for USPTO and global harmonization)
- Patent cases before the Supreme Court
- Patent Litigation Reform/Venue Legislation
- Impact of patents on Drug Pricing
Lame Duck Session

Such Sessions Becoming Routine to complete unfinished work; key items:

- **Appropriations**
  - CR through December 9
  - Omnibus or Minibus or Year-long CR
  - Possible Report Language and “Riders” that impact USPTO

- **Trans Pacific Partnership (TPP)** - Administration supports, but opposition from House/Senate leadership and both presidential candidates.

- **Supreme Court Nomination**
Budget Issues:
Recent History of Continuing Resolutions

1994 -- the last time all appropriations bills were passed individually prior to the start of the fiscal year

1996 -- the last time the spending laws were passed on time (accomplished with an omnibus package of six spending bills)
Looking forward to the 115th Congress (2017-2018)

Will leadership of congressional committee relevant to IP change?

114th Congress (2015-2016)

**U.S. House of Representatives**

*Committee on the Judiciary*

Bob Goodlatte (R-VA-6), Chairman  
John Conyers (D-MI-13), Ranking Member

*Subcommittee on Courts, Intellectual Property, and the Internet*

Darrell Issa (R-CA-49), Chairman  
Jerry Nadler (D-NY-10), Ranking Member

**U.S. Senate**

*Committee on the Judiciary*

Chuck Grassley (R-IA), Chairman  
Patrick Leahy (D-VT), Ranking Member
Looking forward to the 115th Congress (2017-2018)

What IP-related issues might be addressed?
Non-IP related issues likely to dominate the beginning of the 115th

IP issues that may be addressed include:

- **Patent Litigation Reform**
  - Venue
  - Sec. 101 discussions
  - Changes to IPR Proceedings

- **Copyright Modernization and Other issues**
  - New Register of Copyrights
  - Office Structure – Funding and IT
  - Small Claims Court

- Response to SCOTUS Decisions on TM Disparagement
- USPTO Operational issues: TEAPP and Fee Setting Authority
USPTO’s Office of Governmental Affairs: Overview

**Structure:** 10 Staff (mix of attorney’s and non-attorneys)

**Mission**

- **Represent USPTO on Capitol Hill**
  
  (Advance PTO’s Legislative Agenda, prepare testimony, brief staff, provide technical advice)

- **Respond to Requests from Members of Congress and Facilitate Clearance**
  
  (constituent issues, clear IP policy documents within the Administration)

- **Build Relationships and Maintain Goodwill with Elected Officials**
  
  (Support regional office engagement & stakeholder outreach)
Questions and Comments

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