

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Patent Public Advisory Committee Quarterly Meeting Legislative/Governmental Affairs Update

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The 116th Congress



- USPTO-related hearings
 - House Judiciary Committee’s Subcommittee on Courts, Intellectual Property, and the Internet, “Oversight of the U.S. Patent and Trademark Office” (May 9, 2019)
 - House Judiciary Committee’s Subcommittee on Courts, Intellectual Property, and the Internet, “Counterfeits and Cluttering: Emerging Threats to the Integrity of the Trademark System and the Impact on American Consumers and Businesses” (July 18, 2019)



The 116th Congress



- Section 101 hearings
 - Senate Judiciary Committee’s Subcommittee on Intellectual Property, “The State of Patent Eligibility in America”
 - 3 Days of hearings (June 4, 5 and 11)
 - 45 Witnesses
 - Subcommittee solicited feedback on draft legislation and the problems different industries are facing with our nation’s patent eligibility laws

Legislative activity - 116th Congress

Patent-related drug pricing legislation of note

House – Passed the House

- Orange Book Transparency Act of 2019 (H.R. 1503)
(updates Orange Book when patent invalidated by PTAB)
- Purple Book Continuity Act of 2019 (H.R. 1520) (updates to Purple Book)

Senate – Reported out of committee/placed on Senate Legislative Calendar

- Lower Health Care Costs Act (S. 1895)
 - Section 201 biological product patent transparency
 - Section 202 Orange Book modernization
- Affordable Prescriptions for Patients Act of 2019 (S. 1416) (drug hopping/patent dance)
- Preserving Access to Cost Effective Drugs (PACED) Act (S. 440) (sovereign immunity)

Legislative activity - 116th Congress

Diversity in Innovation

Study of Underrepresented Classes Chasing Engineering and Science Success (SUCCESS) Act of 2018 (P.L. 115-273)

- USPTO held three public hearings in May and June in Alexandria, San Jose and Detroit to hear comments on the participation of underrepresented groups in the patent system and accepted written comments through June 30, 2019
- USPTO is engaging with other U.S. government agencies regarding possible data sharing or analysis relevant to the number / benefits of patents applied for / obtained by women, minorities, and veterans
- Currently reviewing the information we have gathered and in the process of preparing the study as required by the SUCCESS Act (due date October 31, 2019)

Inventor Diversity for Economic Advancement Act (“IDEA Act”) of 2019 (S. 2281/H.R. 4075)

- Introduced in House and Senate (similar bill introduced in the 115th Congress)
- Requires the PTO to collect demographic information of patent applicants (gender, race, ethnicity, national origin, sexual orientation, age, military or veterans status, disability, education level attained and income level)
- Requires the PTO to publish a report each year of the total number of patent applications filed and patents issued, broken down by demographic information
- Requires a bi-annual report by USPTO to include evaluation of the data collection process and any improvements no later than 2 years after enactment and then every 2 years thereafter

Legislative activity - 116th Congress

USPTO's legislative priorities

- Continuity of service during lapse in funding
- Investment authority for USPTO's internal operating reserve
- Elevate IP attaché rank
- Clarify statutory authority to suspend deadlines during emergencies and severe outages
- Work with Congress on section 101 reform
- Ensure that Congressional efforts to rein in drug prices do not cause harm to the patent system



Questions and Comments

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THANK YOU