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THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DEPARTMENT OF JUSTICE, FEDERAL TRADE COMMISSION AND U.S. PATENT AND TRADEMARK OFFICE TO HOLD WORKSHOP ON PROMOTING INNOVATION

Workshop on May 26 to Explore the Intersection of Patent Policy and Competition Policy and its Implications for Promoting Innovation

WASHINGTON – The Department of Justice, the Federal Trade Commission (FTC), and the Department of Commerce’s United States Patent and Trademark Office (USPTO) announced today that they will hold a joint public workshop on the intersection of patent policy and competition policy and its implications for promoting innovation. Assistant Attorney General for the department’s Antitrust Division Christine Varney, Under Secretary of Commerce for Intellectual Property and Director of the USPTO David J. Kappos, and U.S. Chief Technology Officer Aneesh Chopra will give opening remarks at the morning session of the workshop. FTC Commissioner Edith Ramirez will open the afternoon session.

The workshop will be held on May 26, 2010, at the USPTO’s campus at 600 Dulany Street, Madison Building Auditorium, Alexandria, Va. The general public and press are invited to attend and view the proceedings. Seating will be on a first-come, first-served basis.

In recent years, federal agencies and the courts have recognized that patents and competition share the overall purpose of promoting innovation and enhancing consumer welfare. Timely, high-quality patents promote investment in innovation. The competitive drive of a dynamic marketplace fosters the introduction of new and improved products and processes. By contrast, delay, uncertainty, and poor patent quality can create barriers to innovation. Additionally, where standards for violating antitrust law are unclear, or where the threshold for antitrust violations is set too low or too high, innovation can be stifled. The workshop will address ways in which careful calibration and balancing of patent policy and competition policy can best promote incentives to innovate.

“Since innovation is the only sustainable source of America’s competitive advantage, the relationship between intellectual property, which captures the value of innovation, and competition policy, which maintains a dynamic marketplace for innovation, is of paramount importance,” noted Under Secretary of Commerce David Kappos. “This conference is designed

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to explore the relationship between competition policy and intellectual property policy and how it fosters innovation.”

“We will benefit from working together with our PTO and FTC colleagues to ensure that the United States is using patent and competition policy that maximizes the potential for innovation, which is the primary driving force of economic growth in the 21st century,” said Assistant Attorney General Christine Varney.

FTC Chairman Jon Leibowitz agreed. “The FTC appreciates this opportunity to work with the DOJ and the USPTO to explore a balance of patent and competition policy that most benefits consumers, by spurring more innovative products and lower prices.”

The first morning panel of experts will examine how challenges posed by the patent backlog affect the competitive strategies of patent applicants and innovators. The second morning panel will examine the impact of the Supreme Court’s 2006 opinion in *eBay Inc. v. MercExchange L.L.C.* on permanent injunctions for patent infringement in district courts and at the U.S. International Trade Commission (USITC). The afternoon panel will evaluate the role of patents in connection with industry standards and the impact such standards have on competition. The workshop will conclude with reflections on the panel discussions by the chief economists of the department’s Antitrust Division, the FTC, and the USPTO.

The schedule for the workshop is as follows:

WELCOMING REMARKS

9:00 a.m.-9:30 a.m.

David Kappos, Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office

Christine Varney, Assistant Attorney General, Antitrust Division, Department of Justice
Aneesh Chopra, U.S. Chief Technology Officer, Executive Office of the President

PANEL 1: THE PATENT APPLICATION BACKLOG: THE COMPETITIVE CHALLENGES FOR INNOVATORS

9:30 a.m.-11:00 a.m.

Panelists

John F. Duffy, Oswald Symister Colclough Research Professor of Law,
The George Washington University Law School

Josh Makower, M.D., Founder & CEO, ExploraMed Development LLC

Michael Meurer, Professor of Law, Boston University School of Law

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Richard T. Ogawa, Esq., Ogawa P.C.

Scott Stern, Joseph and Carole Levy Professor, Kellogg School of Management, Northwestern University and Visiting Professor, MIT Sloan School of Management

BREAK

11:00 a.m.-11:15 a.m.

PANEL 2: PERMANENT INJUNCTIONS IN THE DISTRICT COURTS AND ITC: EFFECTS ON COMPETITION AND INNOVATION

11:15 a.m.-12:45 p.m.

Panelists

Bernard J. Cassidy, Executive Vice President and General Counsel, Tessera Technologies Inc.

Colleen Chien, Assistant Professor of Law, Santa Clara Law

Alice A. Kipel, Partner, Steptoe & Johnson LLP

Christine McDaniel, Economic Adviser to Chairman Shara L. Aranoff,
U.S. International Trade Commission

William Barr, former General Counsel, Verizon Communications Inc.

Emily Ward, Vice President and Deputy General Counsel, eBay Inc. (invited)

LUNCH BREAK

12:45 a.m.-2:15 p.m.

INTRODUCTORY REMARKS

2:15 a.m.-2:30 p.m.

Edith Ramirez, Commissioner, Federal Trade Commission

PANEL 3: STANDARD SETTING, PATENT RIGHTS, AND COMPETITION POLICY

2:30 p.m.-4:00 p.m.

Panelists

Mark Chandler, Senior Vice President & General Counsel, Cisco Systems Inc.

Patrick Gallagher, Director, National Institute of Standards & Technology,
Department of Commerce

Brian Kahin, Senior Fellow, Computer & Communications Industry Association

Anne Layne-Farrar, Director, LECG

Amy A. Marasco, General Manager, Standards Strategy, Microsoft Corp.

A. Douglas Melamed, Senior Vice President & General Counsel, Intel Corp.

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BREAK

4:00 p.m.-4:15 p.m.

WRAP-UP DISCUSSION

4:15 p.m.-5:15 p.m.

Carl Shapiro, Deputy Assistant Attorney General for Economic Analysis, Antitrust Division,
Department of Justice
Joseph Farrell, Director, Bureau of Economics, Federal Trade Commission
Stuart Graham, Chief Economist, U.S. Patent and Trademark Office

Directions to the USPTO's Madison Building Auditorium, 600 Dulany Street, are available on the agency's website at www.uspto.gov/about/contacts/locations/directions.jsp.

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