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PATENT & TRADEMARK POLICY REPORT APRIL 13, 2018



I. Congressional Developments:

- On Wednesday, April 18th at 10 a.m. the Senate Judiciary Committee will hold an on oversight hearing of the U.S. Patent and Trademark Office (USPTO) featuring USPTO Director Andrei Iancu. This will be the first time Iancu appears before a Congressional committee in his capacity as Director. Read more [here](#).
- On Friday, Sens. Hatch (R-UT) and Nelson (D-FL) sent a letter to United States Trade Representative (USTR) Lighthizer asking him to limit the number of exceptions to copyright protections in NAFTA or any future U.S. trade deal. "In the context of both existing and future trade agreements, the administration must ensure that copyright laws abroad strengthen, rather than create exceptions to, protections for America's creators and innovators," the lawmakers write. "We therefore urge you to make strong and enforceable protections for creative works a priority in any negotiation with our trading partners."
- On Wednesday, Speaker of the House Paul Ryan (R-WI) announced he would not seek reelection at the end of his current term. "The job provides incredible opportunities, but the truth is it's easy for it to take over everything in your life. And you can't just let that happen," Ryan said in a press release. "That's why today I'm announcing that this year will be my last one as a member of the House. To be clear, I am not resigning. I intend to serve my full term as I was elected to do. But I will be retiring in January, leaving this majority in good hands with what I believe is a very bright future." Read more [here](#).

Headlines and Highlights:

- Senate and House committees hold hearings on Facebook data breach.
- USTR Lighthizer tells Admin and Hill officials he wants NAFTA vote by December.
- Sen. Shelby selected as next Senate Appropriations Chairman.
- Sens. Hatch and Nelson send letter to USTR Lighthizer asking him to include strong IP protections in NAFTA.
- Speaker Paul Ryan announces he will not seek reelection.
- USPTO Director to appear before Senate Judiciary next week.
- USPTO Director Iancu gives speech at U.S. Chamber of Commerce event.

- On Tuesday, April 17th at 2 p.m. the House Judiciary IP Subcommittee will hold a hearing titled “Safeguarding Trade Secrets in the United States.”
- On Tuesday, Sen. Shelby (R-AL) was selected to serve as the next Senate Appropriations Committee Chairman following the resignation of former Sen. Thad Cochran (R-MS) on April 1st. In the press release announcing his selection, Shelby also announced the rosters for the various subcommittees. The Commerce, Justice, Science and Related Agencies Subcommittee—which oversees funding for the Patent and Trademark Office—will be chaired by Sen. Moran (R-KS) while Sen. Shaheen (D-NH) will be the Ranking Member. Sen. Daines (R-MT) and Sen. Murphy (D-CT) will be the Chairman and Ranking Member, respectively, of the Legislative Branch Subcommittee, which oversees and allocates funds for the Library of Congress and Copyright Office. Read more [here](#).
- On Thursday, House Judiciary Committee Chairman Bob Goodlatte (R-VA) announced that Rep. Keith Rothfus (R-PA) would be rejoining the committee, replacing Rep. Farenthold (R-TX). Read more [here](#).
- On Tuesday, the Senate Commerce and Judiciary Committees held a joint hearing titled “Facebook, Social Media Privacy, and the Use and Abuse of Data.” Facebook CEO Mark Zuckerberg was the sole witness at the hearing. Commerce Chairman John Thune (R-SD) began the hearing by questioning whether Facebook users truly had the ability to consent to how their data is being used, and he specifically mentioned that Congress’ passage of FOSTA (Allow States and Victims to Fight Online Sex Trafficking Act of 2017) last month should be a “wake up call” for the tech industry. He also stated that he’s not sure if the industry has the ability to regulate itself.

II. Administration Updates:

- On Thursday, President Trump told lawmakers he is considering rejoining the Trans-Pacific Partnership (TPP)—a trade pact he withdrew from shortly after taking office. Trump reportedly said he had deputized economic advisor Larry Kudlow and U.S. Trade Representative (USTR) Robert Lighthizer to explore re-entering the TPP. Sen. Sasse (R-NE) said that Trump “multiple times reaffirmed the point that TPP might be easier to join now.” Read more [here](#).
- According to reports by POLITICO, USTR Lighthizer has told Hill and Administration officials in recent weeks that he will be able to reach a preliminary NAFTA deal by May and wants to have Congress vote on it by December. Lighthizer has also indicated that he wants the agreement to pass Congress with 65 percent support, including supportive votes from 20 to 25 Senate Democrats and half the House Democratic Caucus. Read more [here](#).

III. USPTO Updates:

- On Wednesday, USPTO Director Iancu gave a speech at the U.S. Chamber of Commerce Patent Policy Conference titled “Role of U.S. Patent Policy in Domestic Innovation and Potential Impacts on Investment.” Iancu said in his speech that the U.S. patent system is at a “crossroads” due to it being “pushed and pulled, poked and prodded” resulting in a system “in which the patent grant is less reliable today than it should be.” Iancu stated that under his leadership the USPTO will take action to create a new “pro-innovation, pro-IP dialogue” and

increase the “reliability of the patent grant.” Read the speech [here](#).

IV. Judicial Updates:

- On Thursday, *People* magazine reported that [burger chain In-N-Out filed a trademark infringement suit against Australia’s Hashtag Burgers](#), claiming that the name and logo of its Down N’ Out restaurant is likely to confuse consumers. (*IPO Daily News*)
- This week, the *Baltimore Sun* reported that [Ford Motor Co. settled a patent infringement dispute with Paice LLC and the Abell Foundation](#) by licensing Paice patents for improving hybrid vehicle performance, fuel economy, and emissions efficiency. (*IPO Daily News*)

V. International Updates:

- China’s State Intellectual Property Office (SIPO) has announced that the country will soon introduce punitive damages for IP infringements in an effort to ensure that offenders pay a “big price”. China’s official news agency Xinhua shared an interview with Shen Changyu, head of SIPO, yesterday, April 12. Read more [here](#).

VI. Industry Updates:

- On Monday, April 16th the Internet Innovation Alliance will hold a Hill event titled “Protecting America’s Online Consumers in the 21st Century Digital Economy.” The event will feature panelists including Robert McDowell, former Commissioner of the FTC, and Jonathan Leibowitz, former Chairman of the FTC to discuss how changes to the internet ecosystem have put consumers more at risk. Read more [here](#).
- On Tuesday, April 17th from 9 a.m. to 6 p.m. the Federalist Society will hold its Sixth Annual Executive Branch Review Conference at the Mayflower Hotel in Washington, D.C. The event will feature panels on a number of topics under the umbrella of regulation reform, including a panel titled “Administrative Cancellation of Patents: Regulatory Overreach at the Patent Office?” Read more [here](#).