

## PATENT & TRADEMARK POLICY REPORT JULY 20, 2018



### I. Congressional Developments:

- This week, the Senate Finance Committee hired Nasim Fussell, former trade counsel on the House Ways and Means Committee, as the majority deputy chief international trade counsel. Fussell most recently served as director of government and regulatory affairs at Pitney Bowes from 2016 to 2018. Read more [here](#).
- On Thursday, July 26<sup>th</sup> at 9:45 a.m. the Senate Appropriations Subcommittee on Commerce, Justice and Science, and Related Agencies will hold a hearing on the “U.S. Trade Representative Budget.”
- On Tuesday, the House Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection held a hearing entitled “Oversight of the Federal Trade Commission (FTC) 2018”. The purpose of the hearing, led by Subcommittee Chairman Bob Latta (R-OH-05) and Ranking Member Jan Schakowsky (D-IL-09), was to examine the effectiveness of the FTC’s policy and enforcement practices in the modern economy. The hearing covered a broad range of topics but focused primarily on consumer data protection and competition. Members of the Committee were particularly concerned with how economic digitalization is impacting the FTC’s work on consumer and competition issues. The Committee raised concerns about Facebook and Cambridge Analytica but FTC Chairman Joseph Simons and the commissioners were unable to comment on the specific details because there is an ongoing investigation into the matter. Chairman Simons urged Congress to enact legislation that will grant the FTC broader authority and enforcement powers to protect consumer’s data. In addition, Chairman Simons provided insights into the Commission’s upcoming hearings this fall where the commissioners will

### Headlines and Highlights:

- Senate Finance Committee hires new trade counsel.
- USTR Lighthizer will meet with his Mexican counterpart next week on NAFTA.
- Appeals Court for the Federal Circuit rules that Allergan can’t use tribal sovereign immunity to shield patents.
- EU slaps Google with a \$5 billion antitrust fine.
- UK is beginning public consultations on negotiating FTAs with U.S., Australia and joining TPP.
- TPP signatories agree to start accession talks with potential new members in 2019.
- House Digital Commerce Subcommittee holds oversight hearing of FTC.
- NY Times does profile on Rep. Jeffries (D-NY).

examine where the FTC can modernize its policy with respect to merger enforcement and data security.

## **II. Administration Updates:**

- On Wednesday, President Trump said that the U.S. may complete a trade deal with Mexico, and then do a separate one with Canada later, stoking fears about the future of NAFTA. “We have had very good sessions with Mexico and with the new president of Mexico, who won overwhelmingly, and we’re doing very well on our trade agreement,” Trump said to reporters. “So we’ll see what happens. We may do a deal separately with Mexico and we’ll negotiate with Canada at a later time. But we’re having very good discussions with Mexico.” Read more [here](#).
- United States Trade Representative (USTR) Robert Lighthizer will meet with Mexico’s Economy Minister on July 26<sup>th</sup> in Washington, D.C. to address NAFTA sticking points after officials from both countries agreed to step up negotiations and reach a preliminary deal by late August. Read more [here](#).

## **III. USPTO Updates:**

- Registration is now open for Invention-Con 2018, a free two-day conference that will be held at the USPTO headquarters in Alexandria, Virginia, on August 17-18 from 8 a.m. – 5 p.m. ET each day. This year’s theme is "From Concept to Commercialization."
- The next Patent Public Advisory Committee (PPAC) meeting will be on August 2<sup>nd</sup> at USPTO Headquarters and the next Trademark Public Advisory Committee (TPAC) will be July 26<sup>th</sup> at USPTO Headquarters.

## **IV. Judicial Updates:**

- This week, the U.S. Appeals Court for the Federal Circuit ruled that drug company Allergan Plc can’t use tribal sovereign immunity to shield patents on their drug Restasis from challenges at the U.S. Patent and Trademark Office’s Patent Trial and Appeal Board. Read more [here](#).

## **V. International Updates:**

- This week, the European Union hit Google with a \$5 billion antitrust fine for abusing the dominance of its Android mobile operating system. Specifically, EU officials asserted Google has unfairly favored its own services by forcing smartphone makers to pre-install Google apps Chrome and Search in a bundle with its app store, Play. Google said in a statement that it would appeal the ruling. Read more [here](#).
- U.K. Trade Secretary Liam Fox said in a speech on Wednesday that the United Kingdom is beginning public consultations on negotiating free trade agreements with the U.S., Australia and New Zealand, as well as potentially joining the Trans-Pacific Partnership (TPP). Read the speech [here](#).

## **VI. Industry Updates:**

- On Thursday, *The New York Times* published a profile of Rep. Hakeem Jeffries (D-NY-8) in which it argues Rep. Joe Crowley's (D-NY-14) recent primary loss could be good news for the Brooklyn Democrat. "Jeffries," the *NY Times* states, "is likely to try to replace Mr. Crowley as the chairman of the House Democratic Caucus, the fourth-ranking position in the party's hierarchy." Rep. Jeffries—a member of the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet—has been a staunch supporter of strengthening IP protections during his time in Congress.
- On Thursday, chief negotiators from the 11 signatories to the Trans-Pacific Partnership (TPP) agreed to start accession talks with potential new member countries in 2019. Thailand, Indonesia, Colombia, South Korea and Taiwan are seen as willing to join the revised TPP. Read more [here](#).