



AMERICAN CONTINENTAL GROUP

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## PATENT & TRADEMARK POLICY REPORT JUNE 8, 2018



### I. Congressional Developments:

- On Tuesday, June 12<sup>th</sup> at 10 a.m. the Senate Finance Committee will hold a hearing to consider the nominations of Jeffrey Kessler to be an Assistant Secretary of Commerce; and Amy Karpel and Randolph Stayin to be a Members of the U.S. International Trade Commission. Read more [here](#).
- On Thursday, following a bipartisan House Ways and Means Committee meeting with United States Trade Representative Lighthizer, Chairman Brady released a statement urging the Administration to “stay at the table to continue negotiating with Canada and Mexico for a strong and modern NAFTA...” Read more [here](#).
- On Tuesday, June 12<sup>th</sup> at 2:30 p.m. the Senate Appropriations Subcommittee on Commerce, Justice and Science, and Related Agencies will hold a markup of the FY2019 Commerce, Department of Justice, and Science Appropriations bill.

### II. Administration Updates:

- This week, the National Telecommunications and Information Administration (NTIA) published a Notice of Inquiry (NOI) seeking comments and recommendations from all interested stakeholders on its international Internet policy priorities for 2018 and beyond. These comments will help inform NTIA to identify priority issues. Comments are due on or before 5 p.m. EST on July 2, 2018. Read more [here](#).
- Senate Republicans told President Trump during a meeting on Wednesday that they want the NAFTA renegotiations wrapped up by Labor Day, fearing the dispute may impact the midterm

### Headlines and Highlights:

- Senate Finance Committee to hold hearing to consider nominations of ITC Commissioners.
- Senate Appropriations Subcommittee to markup FY2019 CJS bill.
- NTIA publishes Notice of Inquiry regarding Internet policy priorities.
- USPTO seeks nominations to fill TPAC and PPAC vacancies.
- Senate Republicans urge Trump Administration to wrap up NAFTA negotiations by Labor Day.
- Fareplay to host “Forum on Internet Governance.”
- EU antitrust authorities are preparing fine of \$11 billion of Google.
- House Ways and Means Chairman urges Administration to continue negotiating NAFTA.

election. “There’s a real feeling among the senators that was sent to the president that we need some sort of agreement, at least on NAFTA, by Labor Day,” Sen. Chuck Grassley (R-Iowa), who attended the meeting, told The Hill. Read more [here](#).

### III. USPTO Updates:

- Yesterday the U.S. Patent and Trademark Office issued updated patent examination guidance following the Federal Circuit’s decision that the claims at issue in Vanda Pharmaceuticals Inc. v. West-Ward Pharmaceuticals were patent-eligible under 35 U.S.C. § 101. The memorandum discusses several aspects of the opinion, which teaches that claims should be considered as a whole and that “method of treatment” claims like those in Vanda, “that practically apply natural relationships,” should be considered patent-eligible under step 2A of the USPTO’s subject matter eligibility guidance, which obviates the need to analyze whether the specified treatment steps are routine or conventional under step 2B. President HENRY HADAD said “We appreciate Director Iancu’s and the USPTO’s efforts to provide clear and predictable patents rights by issuing updated examination guidance, particularly in the challenging area of patent eligible subject matter.” (*IPO Daily News*)
- The United States Patent and Trademark Office (USPTO) is seeking nominations to fill upcoming vacancies for the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC). Nominations must be postmarked or electronically transmitted on or before July 6, 2018. Submission details can be found in the [Federal Registration Notice](#).
- Registration closes on June 8 for June 13 TC2800 [Circuits Customer Partnership meeting](#). The event is from 12:30 p.m. – 4:30 p.m. ET at the USPTO main campus in Alexandria, Virginia, [regional offices](#), or remotely via WebEx.
- The United States Patent and Trademark Office (USPTO or Office) proposes to amend the Rules of Practice in Trademark Cases and the Rules of Practice in Filings Pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to mandate electronic filing of trademark applications and submissions associated with trademark applications and registrations, and to require the designation of an email address for receiving USPTO correspondence. This proposed rule would further advance the USPTO’s IT strategy to achieve complete end-to-end This document is scheduled to be published in the Federal Register on 05/30/2018 and available online at <https://federalregister.gov/d/2018-11353>,

### IV. Judicial Updates:

- Yesterday in an opinion by Judge TARANTO, the Federal Circuit upheld USPTO decisions that PGS’s claims for “methods and systems for performing ‘marine seismic surveying’” were obvious over a combination of references, rejecting PGS’s arguments that the UPSTO erred in finding a motivation to combine the references. (*IPO Daily News*)

## **V. International Updates:**

- Reports this week indicate that European Union antitrust authorities are preparing to fine Alphabet Inc, the parent company of Google, up to \$11 billion for abusing its market dominance in software that runs on smartphones. Read more [here](#).

## **VI. Industry Updates:**

- On June 21<sup>st</sup>, Fareplay will host a half-day event titled “The Forum on Internet Governance”, an educational conference created to “provide greater understanding of the scope and severity of the current problems associated with the internet and explore solutions.” Author Jonathan Taplin will be the keynote speaker and the event will feature panels on safe harbors and the internet’s impact on the creative eco-system. Read more [here](#).
- *The New York Times* reported on Wednesday on how the White House’s approach to the North American Free Trade negotiations has frustrated U.S. businesses. Documents obtained by the NY Times show frustrated emails from representatives of the largest American companies, including Walmart, U.P.S., and General Motors. “It is hard to have a discussion when no details are provided of where the administration is really going even at a broad level until after decisions have essentially been made,” Linda Dempsey, the vice president for international economic affairs policy at the National Association of Manufacturers, said in an email to a top United States trade representative official in October. Read more [here](#).