



AMERICAN CONTINENTAL GROUP

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PATENT & TRADEMARK POLICY REPORT MARCH 9, 2018



I. Congressional Developments:

- On Monday, Sen. Thad Cochran (R-MS), Chairman of the Senate Appropriations Committee, [announced](#) his intention to resign from the U.S. Senate effective April 1, 2018, citing poor health as the reason. “I regret my health has become an ongoing challenge,” Cochran said. “I intend to fulfill my responsibilities and commitments to the people of Mississippi and the Senate through the completion of the 2018 appropriations cycle, after which I will formally retire from the U.S. Senate.” Read more [here](#).
- On Wednesday, Sens. Cotton, Ernst, Toomey, Perdue, and McCaskill introduced the Preserving Access to Cost Effective Drugs (PACED) Act, legislation that would stop “firms from renting sovereign immunity from Indian Tribes to prevent federal courts, the ITC and the Patent Office from reviewing the validity of the patents.” Read more [here](#).
- On Thursday, March 15th at 10 a.m. the House Science, Space and Technology Committee will hold a hearing on “An Overview of the National Science Foundation Budget Proposal for FY2019” featuring France Cordova, Director of the National Science Foundation, and Maria Zuber, Chair of the National Science Board. The National Science Foundation funds research and education in most fields of science and engineering. It does this through grants, and cooperative agreements to more than 2,000 colleges, universities, K-12 school systems, businesses, informal science organizations and other research organizations throughout the United States. The Foundation accounts for about one-fourth of federal support to academic institutions for basic research.

Headlines and Highlights:

- Bipartisan group of Senators introduce PACED Act to prevent pharmaceutical companies from “renting” sovereign immunity from Native American tribes.
- USPTO Director Iancu will be at SXSW in Austin to unveil a new patent grant cover design.
- CFIUS stalls Broadcom’s takeover of Qualcomm, citing potential national security risks.
- Senate Appropriations Chairman Thad Cochran announces intent to resign on April 1.
- Blackberry files patent infringement suit against Facebook.
- President Trump tweets that the U.S. is “acting swiftly on intellectual property theft.”
- Next PPAC meeting will be May 3rd.

- On Tuesday, March 6th, the Senate Committee on Finance held a hearing titled “Protecting E-commerce Consumers from Counterfeits.” The purpose of the hearing was for members on the Committee to consider legislative solutions to identify and stop counterfeit goods from entering the United States marketplace, specifically in the E-Commerce market. Chairman Hatch cited a recent Government Accountability Office (GAO) investigation, which revealed that counterfeiting through E-commerce is “causing major issues” for both the Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE); due to the advancements in online purchasing, the GAO found that federal agencies are being forced to adopt new tactics, and work closer together to identify counterfeit products and remove them from the market. Chairman Hatch urged his colleagues to take the GAO report seriously, as well as better track the CFP’s intellectual property enforcement methods. Watch the hearing [here](#).

II. Administration Updates:

- Congressional Quarterly (CQ) reported this week on the continued vacancies in the White House Office of Science and Technology Policy (OSTP) as well as the Trump Administration’s “markedly” different approach to open data than the Obama Administration. “The Trump Administration has shown that it does not value science- and data-based policies, proven by its disregard for filling key positions at the White House Office of Science & Technology Policy,” Sen. Maggie Hassan, D-N.H., told CQ. Hassan is one of the seven Democratic senators who has now written to the White House twice about the vacancies — once in April 2017 and again in November — without getting a response. Read more [here](#).
- On Wednesday, President Trump tweeted that the U.S. is “acting swiftly on intellectual property theft,” and noting that the U.S. cannot “allow this to happen as it has for many years.” In August 2017, the Office of the United States Trade Representative (USTR) announced an investigation of China to determine if their policies “may be harming American intellectual property rights, innovation, or technology development.” Read more [here](#).

III. USPTO Updates:

- USPTO Director Andrei Iancu will be in Austin, Texas this weekend to unveil a new patent design. The new patent grant cover will be only the second redesign in a hundred years, says the USPTO release. More info [here](#).
- The next Patent Public Advisory Committee (PPAC) meeting will be May 3rd at USPTO Headquarters in Arlington, VA. The next Trademark Public Advisory Committee (TPAC) meeting will be May 4th.
- Sign-up is now open to attend the April 3 VILT Hops STEPP course “Claim Interpretation – Product By Process.” The event will be held virtually, led by USPTO trainers, and is based on material developed for training patent examiners and other employees.
- PTAB is hosting its first 2018 “Chat with the Chief” webinar next week, Tuesday, March 13 from noon to 1 p.m. ET. Chief Judge David Ruschke will discuss “New PTAB Studies in AIA Proceedings: Expanded Panels and Trial Outcomes for Orange Book Listed Patents.”

- On March 21, the USPTO Office of Innovation Development will host the Women's Entrepreneurship Symposium at the Public Library of Cincinnati & Hamilton County in Cincinnati, Ohio. We will focus on the topics of women inventors, entrepreneurs, and the importance of intellectual property.

IV. Judicial Updates:

- On Tuesday, March 6, BlackBerry filed a suit against Facebook for patent infringement in the US District Court for the Central District of California. In its suit, BlackBerry argues that Facebook has co-opted various innovations originally developed by BlackBerry, including security, user interface, and other functionality features. The suit involves seven different software patents. Read more [here](#).
- Last week, Fujifilm Holdings sued Hologic for patent infringement and unfair trade practices. Fujifilm argues that Hologic has engaged in anticompetitive practices to bar Fujifilm from the US market following the introduction of Fujifilm's cheaper and allegedly more advanced 3D mammography technology. Fujifilm further alleges that Hologic's patent infringement suit against Fujifilm last year is part of the same anticompetitive effort. Read more [here](#).

V. International Updates:

- It was reported this week that LG Group acquired the most patents in the European Union last year, claiming 1,792 patents, according to data released by the European Patent Office. Robert Bosch, the German automotive parts maker, came in second with 1,463 patents and Samsung Group came in at third with 1,408. Read more [here](#).

VI. Industry Updates:

- This week, the Trump Administration moved to stall a potential takeover of Qualcomm, the leading American chip maker, by Singapore-based Broadcom, citing national security implications. The Committee on Foreign Investment in the United States (CFIUS), an inter-agency committee authorized to review transactions that could result in control of a U.S. business by a foreign person, is reviewing the deal before it is complete. CFIUS, in a letter to Qualcomm and Broadcom, cited "national security risks related to weakening of Qualcomm's technological leadership" as well as "risks related to disruption of trusted supply relationship" as red flags. Read more [here](#).
- On Monday, March 12 at 11 a.m. SXSW will hold a panel at the Hilton Austin Downtown Hotel titled "The Persistence of Patent Trolls in Tech" with panelists including Rep. Darrell Issa (R-CA), Chair of the House IP Subcommittee and Evan Engstrom of Engine. Other panels at SXSW include "Tech Under Trump: A 2017/2018 Scorecard" featuring Matt Lira of the White House Office of American Innovation and "Innovating in Legacy Industries" featuring Sen. Coons (D-DE).