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PATENT & TRADEMARK POLICY REPORT OCTOBER 5, 2018



I. Congressional Developments:

- On Wednesday, October 3rd, from 2:30pm-5:00pm, the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights held an oversight hearing on the enforcement of antitrust laws. Department of Justice Assistant Attorney General (AAG) Makan Delrahim and Federal Trade Commission (FTC) Chairman Joseph Simons were the sole witnesses. AAG Delrahim used his [opening statement](#) to discuss some of the recent activities of the Antitrust Division, including its no-poaching investigations and anti-bid rigging actions. He also mentioned the Division's recent change of the merger review guidelines to ensure that all mergers are completed within 6 months, although he later noted that the deadline can be extended on a case-by-case basis. Chairman Simons used his [opening statement](#) to discuss the wide variety of industries that the FTC has been monitoring, especially health care markets. Watch the full hearing online [here](#).
- On Monday, Reps. Guthrie (R-KY) and Matsui (D-CA), members of the Energy and Commerce Committee, introduced H.R. 6913, the "Blockchain Promotion Act of 2018," legislation that would establish a working group of stakeholders across the federal government and private industry to establish a common definition of blockchain. Read more [here](#).
- This week, Sen. Toomey (R-PA), a member of the Senate Finance Committee, voiced concerns about the renegotiated NAFTA, saying it seemed like a "modest step backwards from the point of a free trader." Toomey, however, said he thinks Congress may be able to use the implementing legislation to address some of what he considers flaws. Read more [here](#).

Headlines and Highlights:

- U.S., Canada and Mexico reach agreement on modernized NAFTA.
- Senate Judiciary subcommittee holds hearing on antitrust laws.
- USPTO Director to give speech in Mexico City.
- VP Pence criticizes China for IP theft in Hudson Institute speech.
- Sen. Toomey expresses disappointment in aspects of modernized NAFTA.
- Reps. Guthrie and Matsui introduced Blockchain Promotion Act of 2018.
- White House plans to hold meeting with internet and social media executives on alleged political bias.
- USTR Lighthizer and EU trade chief plan to meet next month to announce shared regulatory agenda.

II. Administration Updates:

- On Tuesday, White House advisor Larry Kudlow said that later this month President Trump plans to host executives of internet and social media companies at the White House. Kudlow. “We’re going to have a little conference - the president will preside over it - we will have big internet companies, big social media companies, search companies,” Kudlow said. “And some who are dissatisfied with those companies.” Read more [here](#).
- Late Sunday evening, the U.S., Canada and Mexico announced they had reached an agreement in their negotiations to update the North American Free Trade Agreement (NAFTA). With all three parties coming to an agreement, they hope to sign the new deal in the coming months. The text of the updated agreement, referred to as the United States-Mexico-Canada Agreement (USMCA), can be found [here](#) and the intellectual property chapter can be found [here](#).
- On Thursday, Vice President Mike Pence gave a speech at the Hudson Institute in which he accused China of trying to undermine President Trump through targeted tariffs and “well-placed propaganda” to exploit “wedge issues.” “To win the commanding heights of the 21st Century economy, Beijing has directed its bureaucrats and businesses to obtain American intellectual property – the foundation of our economic leadership – by any means necessary,” Pence said. Read more [here](#).

III. USPTO Updates:

- The USPTO will hold its monthly Patent Quality Chat on Oct. 9th and will focus on “[Leveraging a Harmonized Patent Classification System](#).”
- The next Patent Public Advisory Committee (PPAC) meeting will be on November 8th at USPTO Headquarters and the next Trademark Public Advisory Committee (TPAC) will be October 26th at USPTO Headquarters.
- The [After-Final Consideration Pilot 2.0 \(AFCP 2.0\)](#) has been extended to Sept. 30, 2019. AFCP 2.0 and Quick Path Information Disclosure Statement (QPIDS) are part of the USPTO's ongoing efforts towards compact prosecution and increased collaboration between examiners and stakeholders.
- EFS-Web and Private PAIR users now have a new, safer, and simpler login. The new method grants access to multiple USPTO systems with one consolidated sign-in and eliminates shared credentials by providing practitioners and their support staff with their own USPTO.gov accounts. The [Migration Tool](#) is now available for existing PKI digital certificate holders (registered practitioners and independent inventors) to link their USPTO.gov accounts to their current PKI digital certificates. (To successfully migrate, users must already have a USPTO.gov account. If you do not already have one, [create a USPTO.gov account](#) and opt in for two-step authentication.) Please follow the [step-by-step instructions](#) to migrate and allow 1–2 business days after you finish the migration steps for the process to complete; you can then use your USPTO.gov account to sign in to EFS-Web and Private PAIR. Customer Numbers associated with the PKI certificate will be migrated to the linked USPTO.gov account. PKI certificates can still be used to sign in to EFS-Web and Private PAIR as well.

IV. Judicial Updates:

- On Monday, Delaware-based TrackTime filed a patent infringement lawsuit against Amazon and several of its subsidiaries accusing them of infringing TrackTime's audio services patents. Read more [here](#).

V. International Updates:

- POLITICO Morning Trade [reported](#) on Friday that USTR Lighthizer and EU trade chief Cecilia Malmstrom plan to meet next month to announce some regulatory areas where they want to increase competition.
- This week, the European Patent Office (EPO) and China National Intellectual Property Administration (CNIPA) agreed on a cooperation program for the next year as “a part of their long term strategic partnership on strengthening the patent system.” Read more [here](#).

VI. Industry Updates:

- On Thursday, Kara Swisher, technology reporter for *The New York Times*, wrote an op-ed on the House Democrats' “Internet Bill of Rights.” Six months ago, Swisher reports, House Minority Leader Nancy Pelosi charged Rep. Ro Khanna (D-CA) with creating an Internet Bill of Rights. Khanna provided Swisher with his list, which she has made public for the first time. The ten principles for an Internet Bill of Rights include the right “to have access to and knowledge of all collection and uses of personal data by companies” and “to move all personal data from one network to the next.” Read more [here](#).
- On October 23rd at the Club de Industriales in Mexico City, USPTO Director Andrei Iancu will give a speech at a conference, put on by Center for Strategic and International Studies (CSIS), titled “How Can Mexico Become More Innovative?” More info [here](#).