



AMERICAN CONTINENTAL GROUP

1800 M Street NW | 5th Floor | Washington D.C. 20036  
Tel: (202) 327-8100 | Fax: (202) 327-8101

## PATENT & TRADEMARK POLICY REPORT SEPTEMBER 28, 2018



### I. Congressional Developments:

- On Wednesday, October 3<sup>rd</sup> at 2:30 p.m. the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights will hold a hearing on “Antitrust Law Enforcement” featuring Assistant Attorney General for Antitrust Makan Delrahim and FTC Chairman Joseph Simons. Read more [here](#).
- A spokesman for House Majority Leader Kevin McCarthy (R-CA) confirmed this week that Google CEO Sundar Pichai is expected to appear before the House Judiciary Committee after the November election. Additionally, Pichai will address meet with a broad swath of the Republican conference on Friday to discuss a range of topics, including the company’s management of conservative content on its platforms. More info [here](#).

### II. Administration Updates:

- On Wednesday, President Trump and Prime Minister Shinzo Abe [announced](#) their intention to enter into negotiations for a bilateral trade agreement between the U.S. and Japan. House Ways and Means Chairman Kevin Brady (R-TX) [applauded](#) the news, saying that Japan is “an important trading partner and a strong ally on economic and security issues.”
- On Monday, the White House distanced itself from a report over the weekend that President Trump is considering an executive order that would subject tech giants like Google, Facebook and Twitter to federal investigations for alleged political bias. Deputy White House press secretary Lindsay Walters said that “Although the White House is concerned about the conduct of online platforms and their impact on society, this document is not the result of an official White house policymaking process.” Read more [here](#).

### Headlines and Highlights:

- Google CEO to testify on Capitol Hill after midterm elections.
- Japan, U.S. announce intent to negotiate bilateral FTA.
- European Patent Office and Chinese Patent Office agree on cooperation program to strengthen patent system.
- USPTO Director gives speech at IPO annual meeting.
- White House refutes report that Trump will issue executive order on investigating Big Tech.
- Harvard and New America issue report “Digital Deceit II: A Policy Agenda to Fight Disinformation on the Internet.”
- Federal Appeals Court reverses patent infringement judgment requiring Apple to pay Univ. of Wisconsin \$234 million.

### III. USPTO Updates:

- On Monday, USPTO Director Andrei Iancu delivered remarks at the Intellectual Property Owners Association 46<sup>th</sup> annual meeting. Iancu said that the USPTO has been “very busy” with the IT systems. “As a general matter, our legacy systems are old and it is time—indeed, well beyond time—to undertake a fundamental modernization effort. And so, we are taking a broad, fresh look at our IT systems. To that end, we have assembled a task force of USPTO leaders, and we are also working with outside consultants, to tackle this issue head-on and as quickly as possible. No options are off the table when it comes to modernizing these vital IT systems.” On Section 101, Iancu highlighted the USPTO’s recent guidance memos, but went on to say that “significantly more work needs to be done” particularly on the abstract idea exception. Read the speech [here](#).
- The next Patent Public Advisory Committee (PPAC) meeting will be on November 8<sup>th</sup> at USPTO Headquarters and the next Trademark Public Advisory Committee (TPAC) will be October 26<sup>th</sup> at USPTO Headquarters.
- The USPTO’s Office of Policy and International Affairs, in partnership with the International Trade Administration, has posted a [job announcement for an IP Attaché](#) located in the U.S. Embassy, New Delhi, India. This high profile diplomatic position requires knowledge of all fields of intellectual property. This job announcement is open through Friday, Oct. 12. For more information, please see the [IP Attaché Program](#) page of the USPTO website.
- Businesses, individuals, and attorneys seeking strategies for protecting intellectual property in China should plan to attend the USPTO’s China IP Road Show. [Register now](#) to attend this free seminar. This program usually consists of a day-long series of panel discussions tailored to the needs of each locality. Experienced practitioners will delve into the details of the protection and enforcement of patents, trademarks, trade secrets, industrial designs, and copyrights. Many state bar associations offer Continuing Legal Education (CLE) credit.

### IV. Judicial Updates:

- This week, the U.S. Federal Court of Appeals reversed a 2015 judgment requiring Apple Inc. to pay the University of Wisconsin \$234 million in damages for patent infringement of the school’s computer processing technology. Read more [here](#).

### V. International Updates:

- On Sunday, Mark Scott, chief technology correspondent for POLITICO EU, wrote an article titled “The next antitrust standoff—Big Tech’s use of data.” Scott highlights the EU’s recent announcement that they would be investigating Amazon over potential abuse of digital information, and the Federal Trade Commission’s public hearing in early November on big data and competition as signs of a new round of antitrust battles. “Are we OK with a small group of firms using their pseudo-monopolies over digital information to offer us an increasing range of digital goods and services that are often overwhelmingly popular — but which may come at the expense of less competition overall for our online euros, dollars and pounds?” Scott asks. Read more [here](#).

- 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 Monday, Harvard’s Shorenstein Center on Media, Politics and Public Policy and New America, a D.C.-based think tank, published a report titled “Digital Deceit II: A Policy Agenda to Fight Disinformation on the Internet.” The report claims that Big Tech can’t be trusted to police themselves and should be subject to tougher regulation, including around their data accumulation efforts. Read the report [here](#).