



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 FEBRUARY 15, 2019



I. Congressional Developments:

- On Tuesday, House Republicans announced the roster for the Select Committee on Congressional Modernization. Rep. Tom Graves (R-GA) will be the Ranking Member and the following Republicans will serve on the Select Committee: Reps. Davis (R-IL); Brooks (R-IN); Woodall (R-GA); Timmons (R-SC); Newhouse (R-WA). More info. [here](#).
- Senate Finance Committee Chairman Grassley (R-IA) told reporters this week that he is not willing to re-negotiate the provision in the United States–Mexico–Canada Agreement (USMCA) that requires Mexico and Canada to provide 10 years of protection for test data used to develop biologic medicines. This is despite concerns raised by House Democrats that the provision would increase the price of certain prescription drugs for American consumers by shielding drug companies from competition. Rep. Blumenauer, who chairs the House Ways and Means Subcommittee on Trade, told the Associated Press that he does not think implementation legislation will pass out of his subcommittee with the biologics provision intact. Chairman Grassley touted the biologics provision as “quite a deal that’s going to protect intellectual property and encourage more research and development and more miracle drugs.” Read more [here](#) and [here](#).

II. Administration Updates:

- On Monday, President Trump signed an Executive Order (EO) directing federal agencies to promote breakthroughs in artificial intelligence (AI) and related technologies. Specifically, it directs implementing federal agencies to prioritize AI R&D in their fiscal year 2020 budget proposals. The EO also directs agencies to collaborate with non-Federal entities, such as industry,

Headlines and Highlights:

- Grassley not willing to re-negotiate USMCA biologics provision in implementation bill.
- President Trump signs Executive Order to promote breakthroughs in AI and related technologies.
- USPTO issued NPRM to require foreign applicants and registrants be represented by a licensed U.S. attorney.
- USPTO announces Henry “Jamie” Holcombe as new Chief Information Officer.
- USPTO releases “Progress and Potential: A profile of women inventors on U.S. Patents.”
- Mexican Trade Undersecretary says the government of Mexico is not willing to re-negotiate provisions in the USCMA.

academia, international partners and allies, to support the development of AI technologies in the United States. Finally, as part of this comprehensive federal strategy for AI, the EO underscores the importance of fostering public trust and confidence in AI technologies by protecting civil liberties, privacy, and American values in their application. Read more [here](#).

III. USPTO Updates:

- On Friday, the USPTO issued a notice of proposed rulemaking to amend the Rules of Practice in Trademark Cases and the rules regarding Representation of Others Before the USPTO to require foreign applicants, registrants, or parties to be represented by an attorney who is an active member in good standing of the bar of the highest court of a state in the United States, including DC and any U.S. Commonwealth or territory. Comments must be received by the USPTO by March 18, 2019 to ensure consideration. Read more [here](#).
- On Wednesday, the USPTO announced the appointment of Henry “Jamie” Holcombe as the agency’s Chief Information Officer. Holcombe joins the USPTO after more than 20 years of experience building and leading teams in the IT and financial industries, recently serving as vice president and general manager at Harris Corporation in Herndon, Virginia. Prior to working at Harris, Holcombe worked as vice president for information systems at Universal Service Administrative Company in DC. His first full day in this new role will be Monday, February 25. Read more [here](#).
- The next Business Methods Partnership Meeting will be jointly held at the USPTO headquarters and the Dallas Texas Regional Office on Tuesday, April 2, 2019, from 10:00am to 4:00pm EDT. WebEx will also be available to allow individuals to participate remotely. Register online [here](#).
- The 2019 Technology Center 2800 Customer Partnership Meeting will be held on March 12th from 12:00PM-4:00PM EDT at USPTO headquarters. While a formal agenda for the meeting is forthcoming, a major topic will be the new Subject Matter Eligibility Training. The deadline to register for this event is March 8th. Read more [here](#).
- On April 2 and April 3, USPTO is hosting a Virtual Instructor Led Training (vILT) course titled, “Examining Computer-Implemented Functional Claim Limitations for Compliance with 35 U.S.C. § 112.” The course is led by USPTO trainers and based on recent training delivered to patent examiners. Sign up [here](#).

IV. Judicial Updates:

- On Wednesday, Reps. Doug Collins (R-GA) and Mike Quigley (D-IL) reintroduced the Electronic Court Records Reform Act (ECRRA). This bipartisan legislation would make federal court records free of charge online via the Public Access to Court Electronic Records system (PACER), which currently charges the public a fee to access documents. The bill also seeks to improve the PACER system by making audio and visual court records available on the system and adding a function to enable users to search its catalog of court documents easily. The proposal was introduced in September 2018 but failed to get a hearing last Congress. Read more [here](#).

V. International Updates:

- Mexican Trade Undersecretary Luz María de la Mora told reporters on Thursday that the government of Mexico is not willing to renegotiate any provisions of the USMCA. Read more [here](#).
- After McDonalds lost its trademark for “Big Mac” in the European Union (EU) last month, Burger King in Sweden has rolled out a new menu with snarky hat-tips to the fast-food chain with lines such as “The Burger Big Mac Wished it Was” and “The Anything but a Big Mac.” The European Union Intellectual Property Office (EUIPO) ruled in January that McDonald’s must forfeit its rights to the trademark “Big Mac,” which marked a big victory for the Irish fast-food chain Supermac’s in a long-standing legal dispute between the two companies. McDonald’s told The Washington Post that it plans to appeal the EUIPO decision. Read more [here](#).

VI. Industry Updates:

- On Monday, the USPTO released “Progress and Potential: A profile of women inventors on U.S. Patents.” This report studies the trends and characteristics of U.S. women inventors named on U.S. patents from 1976 through 2016. It finds that women still comprise a small minority of patent inventors, making up only 12 percent of all inventors granted patents in 2016. The report indicates that gains in female participation in science and engineering occupations and entrepreneurship are not leading to broad increases in female patent inventors. Overall, these findings highlight how women’s innovative potential is underutilized in the United States. Read more [here](#).
- Apple announced Thursday that the iPhones 7, 7 Plus, 8, and 8 Plus will once again be available for sale in Germany. This decision comes two months after the smartphone maker removed these models because a Munich court ruled that it had infringed on a patent held by Qualcomm. In a statement announcing the decision, Apple explained “To ensure all iPhone models can again be available to customers in Germany, we have no choice but to stop using Intel chips and ship our phones with Qualcomm chips in Germany.” Read more [here](#).