I. Congressional Developments:

- The House and Senate released the final Defense Authorization Act (NDAA) on Tuesday evening, teeing up the bill to be enacted before the end of the year. Of note, despite efforts from stakeholders and the bill’s sponsors, the INFORM Consumers Act was not included in the final NDAA. The bill – which seeks to crack down on the dissemination of counterfeits online by requiring ecommerce sites to take steps to verify the identity of high-volume sellers – was previously included in a version of last year’s defense bill and in some early versions of the China competition package that was enacted earlier this year. Furthermore, the House version of the bill (H.R. 5502) passed the lower chamber last month. Of note, the final NDAA does maintain a provision from the House version of the bill (sec. 220) that would require the Secretary of the Navy to carry out a pilot program to expand the support available to certain personnel who seek to engage in the development of patentable inventions. Find the text of the NDAA here and the Joint Explanatory Statement here (explanation of Navy provision on page 23).

- On Tuesday, the Senate passed the Unleashing American Innovators Act (S. 2773) with an amendment by unanimous consent. Introduced by Senate Judiciary IP Subcommittee Chair Patrick Leahy (D-VT) and Ranking Member Thom Tillis (R-NC) on September 21, 2021, the bill would require the Patent Office’s satellite offices to conduct outreach to increase participation in the patent system by women, people of color, military veterans, individual inventors, and other groups that are underrepresented in the system. Reps. Nancy Mace (R-

Headlines and Highlights:

- House and Senate release final NDAA; INFORM Act not included.
- Senate passes the Unleashing American Innovators act with an amendment by UC.
- Pride in Patent Ownership Act gets held over at Senate Judiciary Committee markup.
- USPTO announces Cancer Moonshot Expedited Examination Pilot Program.
- USTR endorses delaying deadline to decide whether to expand TRIPS waiver to Covid diagnostics and therapeutics.
- Federal government poised to invest $1.5 billion to help spur a standards-based alternative to modern cellular network gear.
- USPTO hosting webinar on filing trademark applications involving goods related to NFTs on Dec 13th.
SC) and Deborah Ross (D-NC) authored companion legislation in the House of Representatives, but that bill (H.R. 8697) has yet to be reported out of the House Judiciary Committee.

- The Pride in Patent Ownership Act (S. 2774) was on the markup schedule in the Senate Judiciary Committee on Thursday, but the bill was held over. The bill was introduced in September 2021 by IP Subcommittee Chairman Leahy and Ranking Member Tillis and would require patent owners to disclose their identity with the Patent Office when a patent is issued and whenever it changes hands so that the public can easily look up a patent’s owner and the owner's ultimate parent entity.

II. Administration Updates:

- On Tuesday, the Office of the United States Trade Representative (USTR) announced support for delaying the deadline to decide whether to extend a waiver of intellectual property rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to diagnostics and therapeutics related to COVID-19. According to USTR Katherine Tai, her Office has actively engaged in discussions with World Trade Organization (WTO) members, U.S. stakeholders, Congress, and others on whether to extend the waiver and “[r]eal questions remain on a range of issues,” including the key question of whether an extension would actually result in increased access to COVID-19 treatments. USTR Tai said the additional time will help all members to “make an informed decision.” Read more from IPWatchdog here.

- On Wednesday, Axios reported that the federal government plans to invest $1.5 billion to help spur a standards-based alternative for modern cellular network gear after banning Huawei’s products. “The highly consolidated global market for wireless equipment creates serious risks for both consumers and U.S. companies,” Alan Davidson, Assistant Secretary of Commerce for communications and information and NTIA administrator, said in a statement. The funds were made possible by the Chips and Science Act that passed earlier this year and is aimed at helping companies switch to Open Radio Access Network (ORAN), which uses standard computing gear to replace hardware from companies the Administration perceives as problematic, such as Huawei. The agency plans to hold listening sessions in January and is required to start making the first grants by August 2023. Read more here.

III. USPTO Updates:

- In a Federal Register notice published this week, USPTO announced a Cancer Moonshot Expedited Examination Pilot Program, which is intended to support President Biden’s Cancer Moonshot. Beginning on February 1, 2023, the new program expedites examination for a broad scope of technologies to prevent cancer and cancer mortality. Patent applications pertaining to the qualifying technologies will be advanced out of turn for examination and will be reviewed earlier (accorded special status). The program is scheduled to run until either January 31, 2025, or the date by which the USPTO accepts a total of 1,000 grantable petitions (whichever is earlier). Find a press release from USPTO here and the Federal Register notice here.
• On December 13th, USPTO is hosting a training webinar on filing trademark applications involving goods and services related to NFTs, blockchain, cryptocurrencies, and virtual goods. The webinar will cover examples of acceptable identifications of goods and services, a discussion of appropriate specimens, and the relatedness of real and virtual goods when determining likelihood of confusion. Register online here.

• USPTO has extended the comment period for stakeholders to submit comments on the Office’s initiatives to ensure the robustness and reliability of patent rights. Comments on the matter are now due February 1st (instead of January 3rd). Find more info. here and here.

IV. Judicial Updates:

• On Thursday, news surfaced that patent plaintiff Nimitz Technologies LLC lost its appeal seeking to block a judge’s demand for information about the financing of its lawsuits. The U.S. Court of Appeals for the Federal Circuit said that U.S. District Judge Colm Connolly’s order for documents concerning Nimitz’s possible ties to IP Edge LLC was proper and relevant to the case. Nimitz had tried to make the case that Judge Connolly was mounting an “inquisition.” Read more from Reuters here.

V. International Updates:

• This week, the European Unified Patent Court (UPC) announced that its Sunrise Period will be delayed by two months, with a new planned opening date of March 1st, 2023. The entry into force of the UPC Agreement (UPCA) was also pushed to June 1st, 2023. The UPC will serve as a common court for EU member states that will hear patent litigation, and as such change the landscape of patents in the European Union when it opens in June. Twenty-four EU Member states have signed the UCPCA. Read more about the UCPA and the delayed opening here.