



AMERICAN CONTINENTAL GROUP

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PATENT & TRADEMARK POLICY REPORT JULY 29, 2022



I. Congressional Developments:

- On Wednesday, The Kids Online Safety Act S.3663 (KOSA) and the Children and Teens' Online Privacy Protection Act S.1628 (COPPA 2.0) were reported out successfully by the Senate Committee on Commerce, Science, and Transportation during an executive session. KOSA was reported out with a unanimous vote of 28-0 while COPPA 2.0 advanced by a voice vote. Read more [here](#).
- On Wednesday, Senators Gary Peters (D-MI) and Joni Ernst (R-IA) introduced the AGILE Procurement Act. According to FedScoop, the legislation would require the Office of Management and Budget's Office of Federal Procurement Policy and the General Services Administration to streamline the ability of the federal government to purchase commercial technology and to provide specific training for IT and communications tech acquisition. Commenting on the proposed legislation, Sen. Peters said: "Recent technological advancements have greatly increased the federal government's need to acquire new technologies and retain qualified procurement professionals to effectively serve taxpayers." He added: "This bipartisan legislation will ensure businesses are able to provide innovative solutions to the federal government's most pressing challenges and can compete on a level playing field to win federal contracts." Read more [here](#).
- On Thursday, the Senate Judiciary Committee held an Executive Business meeting to markup [S.4430, The Interagency Patent Coordination and Improvement Act of 2022](#) cosponsored by Senators Durbin, Tillis,

Headlines and Highlights:

- Bills to Boost Kids' Online Safety Advance in Senate
- Klobuchar asks FTC to Investigate Amazon's \$3.9 Billion Move to Acquire One Medical
- Biden Meets CEOs to Boost U.S. Chips Production
- USPTO to Expand Initiatives for Under-Resourced Inventors and First-Time Filers
- Derrick Brent Named USPTO Deputy Director
- USPTO Offers Resources to Support Transition to Patent Center System

Grassley, Leahy, Coons, and Cornyn. Although Chairman Durbin was not in attendance due to a positive COVID test, the bill was [reported](#) out unanimously. During the meeting Sen. Tillis stated, “This [bill], as you described it, is a simple measure. I’m really surprised by some of the arguments and hyperbole that some have engaged in against the bill. It seems to me that any company in any industry should want patent examiners to have access to all the pertinent information. That’s simply what this bill does.” Read more from IP Watchdog [here](#).

II. Administration Updates:

- Sen. Klobuchar sent a letter to the FTC last Thursday asking them to investigate Amazon’s proposed \$3.9 billion acquisition of One Medical. Chair Klobuchar raised concern that the proposed transaction “raises questions about potential anticompetitive effects related to the pharmacy services business Amazon already owns and about preferencing vendors who offer other services through Amazon.” Read more [here](#).
- On Monday, President Biden met with the chief executives of Lockheed Martin Corp, Medtronic PLC, and Cummins Inc. along with labor leaders to emphasize the importance of the CHIPS legislation. "Congress must pass this bill as soon as possible," Biden said. "There is an economic imperative." On Tuesday, the Senate voted 64 to 32 in favor of the motion to invoke cloture on the bill and on Wednesday they voted to pass the bill by 64-33 vote. On Thursday the House voted 243-187 to send it to President Biden’s desk. Read more [here](#).

III. USPTO Updates:

- USPTO and the International Trade Administration (ITA) announced this week that they have an opening for an IP attaché that will be assigned to Johannesburg, South Africa. The incumbent will act as a resource for the IP system in South Africa for U.S. government agencies and U.S. industry. This high-profile diplomatic position requires a law degree, a current active bar membership, and knowledge of all IP fields. More info. [here](#) and [here](#).
- On Wednesday, Director Vidal published a blog post announcing several new programs aimed at expanding the U.S. innovation ecosystem, which she said, “could quadruple the number of American inventors, and increase the GDP per capita by as much as 4%, or by about \$1 trillion.” According to the blog, the initiatives are being spearheaded by the USPTO’s [Council for Inclusive Innovation](#) (CI²), for which Secretary of Commerce Gina Raimondo serves as Chair and Vidal as Co-Chair. The new initiatives include the Innovation internship program, First-time filer expedited examination petition, Expansion of free legal services, and the Community outreach campaign. Read the Director’s full post [here](#).
- On Thursday, Secretary of Commerce Gina Raimondo and Director Vidal announced Derrick Brent as the new Deputy Director of the USPTO. “I am thrilled to welcome Derrick to America’s Innovation Agency,” said Director Vidal. “Derrick’s wide and deep experience in intellectual property, policy, government, and industry will serve the agency well. His work in the private and public sectors, working with a wide

range of IP constituencies in different industries across the country, from Georgia to Ohio to California, and fighting for civil rights and the rights of the under-resourced and underrepresented, will undoubtedly lift this agency to new heights. I am excited to partner with Derrick to expand innovation throughout our country and bring more of it to impact.” Brent is a former Chief Counsel to Senator Boxer (D-CA). His full bio can be found on the [USPTO website](#) upon his swearing in on August 1.

- Next week, the USPTO modern, user-friendly [Patent Center](#) system will fully replace the legacy Public Patent Application Information Retrieval (Public PAIR) tool for the electronic filing and management of patent applications. The USPTO published a press release stating, “Users can learn more about the decision to transition to a modern system and the benefits of Patent Center in our [Director’s blog](#). We’ve also made more information available, including a [Patent Center FAQ](#), on the [Patent Center webpage](#) of the USPTO website. Users can also watch our [Public PAIR retirement video](#).”

IV. Judicial Updates:

- On Monday, in “an effort to equitably distribute” patent cases, the Chief judge of the U.S. District Court for the Western District of Texas announced that patent cases would be randomly assigned among the District’s twelve judges. This will effectively end a policy that has allowed Judge Alan Albright’s Waco court to host nearly a quarter of all pending U.S. patent cases. Plaintiffs in West Texas could previously request to have their cases heard in a specific division. Some stakeholders have accused Judge Albright of being overly friendly to so-called “patent trolls,” and Senate Judiciary IP Subcommittee Leaders Thom Tillis (R-NC) and Patrick Leahy (D-VT) have criticized the “extreme concentration” of patent cases in his court. A spokesperson for Ranking Member Tillis said the senator was “pleased to see that the Western District of Texas is taking steps to correct some of the abuses that are occurring in its courtrooms,” adding that, in his view, the announced action “reduces the need for additional congressional action” on venue rules in patent cases. Read more [here](#).
- At the eleventh hour before the trial was set to begin this week, news surfaced that Apple Inc agreed to settle a lawsuit brought by headphone maker Koss Corp over its AirPods earbuds and Beats headphones. U.S. District Judge Alan Albright dismissed the case in the Waco, Texas federal court with prejudice the same day the settlement was announced, which means the suit cannot be refiled. Details of the settlement are not publicly available. Read more [here](#).

V. International Updates:

- On Wednesday, Reuters reported that Illumina’s acquisition of biotech company Grail is expected to be blocked by EU antitrust regulators even after Illumina’s offer of royalty-free global licenses for some of its patents and a three-year patent truce with Chinese rival BGI in Europe. Illumina said it would continue efforts to show the Commission that the deal is pro-competitive and in the best interests of patients in Europe and elsewhere, but the FTC is

also suing to stop the deal. According to Reuters, the companies have been embroiled in a global legal battle over their respective sequencing technologies, with court cases in countries including Germany, Denmark, Switzerland, and Turkey. Read more [here](#).

VI. Industry Updates:

- According to Fortune, TikTok’s parent company, ByteDance, has filed a [trademark application](#) at the USPTO for “TikTok Music,” a potential music streaming service. If approved, the trademarked phrase would apply to a mobile and tablet app where users can “purchase, play, share, download music, songs, albums, lyrics” and “create, recommend, share his/her playlists,” according to the application. Read more [here](#).