



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 16, 2022



I. Congressional Developments:

- Next Tuesday, September 20th, at 3:00pm ET, the Senate Judiciary Antitrust Subcommittee is holding a hearing titled “Oversight of Federal Enforcement of the Antitrust Laws.” More info. [here](#).
- On Wednesday, the House Ways & Means Committee held a hearing titled “The Future of U.S. – Taiwan Trade.” The hearing focused on the committee’s bipartisan interest in deeper trade relations with Taiwan, and the benefits a more secure trade relationship will provide for both countries. Overall, the committee had a relatively unified voice in support for a U.S.-Taiwan trade agreement, and the desire for more progress out of the Biden Administration. Most of the questions focused on agriculture, labor and other issues. The general consensus of the witnesses was that the Biden Administration has started the conversation and is heading in the right direction but needs to do more in order to solidify a solid free trade agreement with Taiwan. Both witnesses and members seemed to agree that an agreement is necessary and outweighs any concerns about China’s perception of such an agreement within the region. The prevailing notion is that by the United States stepping in and signing an agreement with Taiwan, we will provide the necessary political cover for other like-minded allies to engage in their own trade agreements with Taiwan. Watch the full hearing [here](#).

Headlines and Highlights:

- Senate Judiciary Antitrust Subcommittee holding oversight hearing on the federal enforcement of antitrust laws.
- USPTO and WIPO continue their conversations on AI.
- House Ways & Means Committee holds hearing on the future of U.S. and Taiwan trade.
- USPTO Director Vidal appointed as Federal Co-Chair of the National Advisory Council on Innovation & Entrepreneurship.
- Centripetal asks Supreme Court to overturn a Federal Circuit decision that wiped out its \$1.9 billion patent infringement verdict against Cisco over cybersecurity patents.

II. Administration Updates:

- On Thursday, U.S. Secretary of Commerce Gina Raimondo announced that USPTO Director Kathi Vidal has been appointed as the third Federal Co-Chair of the National Advisory Council on Innovation & Entrepreneurship (NACIE). NACIE is a federal advisory committee managed by the U.S. Economic Development Administration's Office of Innovation and Entrepreneurship and charged with identifying and recommending solutions to drive the innovation economy, including growing a skilled STEM workforce and removing barriers for entrepreneurs ushering innovative technologies into the market. The council also facilitates federal dialogue with the innovation, entrepreneurship, and workforce development communities. "I look forward to collaborating with Under Secretary Vidal on NACIE," said Assistant Secretary of Commerce for Economic Development Alejandra Y. Castillo. "As we strengthen innovation economies and remove barriers for entrepreneurs, we need to ensure that these opportunities are inclusive to allow for success in all pockets of our country." Read more [here](#).
- On Tuesday, the U.S. Commerce Department announced it had reached a research and development agreement with Google to produce chips that researchers can use to develop new nanotechnology and semiconductor devices. Reports suggest that the deal was signed between the National Institute of Standards and Technology (NIST) and Google, and the chips will be manufactured by SkyWater Technology. In a press release the Commerce Department said "NIST anticipates designing as many as 40 different chips optimized for different applications. Because the chip designs will be open source, researchers will be able to pursue new ideas without restriction and share data and device designs freely." Read more [here](#).

III. USPTO Updates:

- Next week, both the U.S. Patent and Trademark Office (USPTO) and the World Intellectual Property Organization (WIPO) continue public meetings looking at the impact, use and policy implications of artificial intelligence as it relates to intellectual property. Next Thursday (9/22), the USPTO will host a [meeting of its Artificial Intelligence \(AI\) and Emerging Technologies \(ET\) Partnership Series](#) (virtually and in person) at its Silicon Valley Regional Office in San Jose, CA. During this meeting, panelists from industry and the USPTO will explore various patent policy issues with respect to the biotech industry. Next week, WIPO will also hold its [6th Conversation on IP and Frontier Technologies](#) focused on AI, Thursday and Friday (Sept. 21/22). The session will focus on issues related to "the role of artificial intelligence in the inventive process, questions that AI inventions raise for IP systems, [and] how IP Offices can support innovation in this field."
- USPTO has published a notice of proposed rulemaking (NPRM) in the Federal Register to formalize its Diversion Pilot Program for patent and trademark practitioners whose physical or mental health issues or law practice management issues resulted in minor misconduct. This proposed rulemaking would also require reciprocally recognized foreign trademark attorneys and agents to regularly update their contact information in order to provide the public with current information. Comments on the NPRM are due to the USPTO by November 7th. More info. [here](#) and [here](#).

- On October 12th, from 1:00 – 4:00 p.m. ET, USPTO is hosting its “2022 Hispanic Innovation and Entrepreneurship Program.” During the event, David Price, inventor of the Safety Pouch, and Kate Yoo McCrery, Price’s mentor and Founder of Rhinebeck Ventures, will discuss how mentors can help you be successful to a promising inventor’s journey. Find more info. [here](#).

IV. Judicial Updates:

- News surfaced this week that Centripetal Networks Inc. is asking the U.S. Supreme Court to overturn a Federal Circuit decision that wiped out its \$1.9 billion patent infringement verdict against Cisco Systems Inc. over a judge’s failure to recuse himself. Centripetal is claiming that Judge Henry Morgan’s decision to place the “trivial” amount of stock in a blind trust was appropriate. Centripetal had sued Cisco in 2018 for infringing several cybersecurity patents. Judge Morgan ruled for Centripetal two months after learning that his wife owned 100 Cisco shares worth \$4,688, although he has insisted that he was not aware of the shares during the trial. Read more [here](#) and [here](#).

V. International Updates:

- The Office of the United States Trade Representative (USTR) is soliciting public feedback on this year’s Notorious Markets list, which identifies examples of online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. This year’s focus issue is the impact of piracy on the U.S. worker. The deadline to submit comments to USTR is October 7th. More info. [here](#).
- On Wednesday, *Reuters* reported that the U.S. plans to hold talks with Taiwan next month to discuss the recently passed Chips and Science Act. The U.S. has encouraged foreign tech firms to manufacture in Taiwan and has welcomed investments by Taiwan Semiconductor Manufacturing Company (TSMC) and GlobalWafers Co. Sandra Oudkirk, director of the American Institute in Taiwan said, "At this event, we plan to host a roundtable discussion to share more on how the Chips and Science Act will be implemented in the United States." Read more [here](#).

VI. Industry Updates:

- On Thursday, the Initiative for Medicines, Access, & Knowledge (I-MAK) published a report claiming that four pharmaceutical companies have filed hundreds of patents to keep their drugs out of the hands of generic competition and prolong their “unprecedented profits.” The I-MAK researchers found that on average, there are 74 granted patents on each of America’s ten top selling drugs. The report also points out that – on average – four times as many patents are granted on the top ten drugs in the U.S. compared to Europe. The report makes the case that by obtaining large quantities of patents on drugs, major drugmakers are able to have a “substantial advantage to keep generic and biosimilar competitors off the market.” Read the full report [here](#) and more info. [here](#).