

## PATENT & TRADEMARK POLICY REPORT JANUARY 14, 2022



### I. Congressional Developments:

- On Thursday, the Senate Judiciary Committee reported Kathi Vidal's nomination to be Under Secretary of Commerce for Intellectual Property and USPTO Director favorably out by a 17-5 vote, sending her nomination to the full Senate for consideration. The following Senators voted no on her nomination: Kennedy (R-LA), Lee (R-UT), Cruz (R-TX), Hawley (R-MO), and Ossoff (D-GA). In his opening statement, Ranking Member Grassley (R-IA) said that Ms. Vidal is widely respected and has practiced IP law for more than 20 years. Ranking Member Grassley said he had spoken to Ms. Vidal about her views on patent application fees, multiple challenges to the same patent, and concerns about the IPR review process potentially disadvantaging small inventors. In her answers, he said, Ms. Vidal made it clear that she understands the challenges facing our patent process, as well as their impact on small inventors, and he was confident that she'll work to address them. Chairman Durbin (D-IL) also highlighted Ms. Vidal's years of experience litigating patent and IP matters. Overall, he said she has a deep understanding of the office and would be an asset to its management. IP Subcommittee Chairman Leahy (D-VT) and Ranking Member Tillis (R-NC) also voiced their support for her nomination. Finally, Senator Kennedy said he thought Ms. Vidal's answers to his question were "evasive." He added that he has voted against the last several PTO directors because, in his view, they are in Big Tech's pockets. Watch the full markup [here](#).
- The Senate Judiciary Committee was also scheduled to mark up the American Innovation and Choice Online

### Headlines and Highlights:

- Senate Judiciary Committee reports nomination of Kathi Vidal to serve as USPTO Director favorably out by a 17-5 vote.
- American Innovation and Choice Online Act held over at Senate Judiciary Committee markup.
- Alan Davidson confirmed as NTIA Administrator.
- European Commission and EUIPO launch €47 million fund to help EU-based SMEs protect their IP rights.
- USPTO launches identity verification for USPTO.gov account holders who use TEAS and TEASi.
- IFI CLAIMS Patent Services releases 2021 U.S. Top 50 and Global 250 patent rankings.

Act ([S. 2992](#)) on Thursday, but the bill was held over and will be considered by the Committee at a later date. Introduced by Antitrust Subcommittee Chair Klobuchar (D-MN) and full Committee Ranking Member Grassley on October 18<sup>th</sup>, 2021, S. 2992 would establish what its sponsors have [deemed](#) as “commonsense” rules of the road for dominant digital platforms to prevent them from abusing their market power to harm competition, online businesses and consumers and from reducing incentives to innovate. The House companion bill ([H.R. 3816](#)) was introduced by House Judiciary Antitrust Subcommittee Chairman Cicilline (D-RI) and Ranking Member Buck (R-CO) and reported favorably out of the House Judiciary Committee in June 2021.

## II. Administration Updates:

- The National Institute of Standards and Technology (NIST) is doing a [study](#) on emerging technology and is seeking input about the public and private sector marketplace trends, supply chain risks, and legislative, policy and future investment needs of eight emerging technology areas, including artificial intelligence. The deadline to submit comments is January 31<sup>st</sup>.
- Alan Davidson was confirmed as administrator of the National Telecommunications and Information Administration (NTIA) by a vote of 60-31 on Tuesday. Separately, the NTIA is [seeking public comment](#) on the \$48.2 billion allocated in the infrastructure bill to deploy broadband to unserved and underserved populations.

## III. USPTO Updates:

- On January 26<sup>th</sup>, from 2:00 – 3:15 p.m. ET, USPTO is hosting a virtual event titled “Together in Innovation: Inner space and outer space.” The program will feature remarks from the award-winning Nanodropper team and the Inspiration4 crew. More info. [here](#).
- As part of its ongoing efforts to increase accountability during the trademark filing process and advance the USPTO’s register protection initiatives, on January 8<sup>th</sup> USPTO launched identity verification for USPTO.gov account holders who use the Trademark Electronic Application System (TEAS) and TEAS international (TEASi). Identity verification is currently optional but will become mandatory starting April 9<sup>th</sup>. More info. [here](#).

## IV. Judicial Updates:

- *Reuters* reports that, on Monday, the U.S. Supreme Court declined a request by medical-device maker Medtronic Inc to review a case involving surgical-screw patents, letting stand a \$112 million verdict against the company for breaching a royalty agreement. Read more [here](#).

## V. International Updates:

- On Monday, the European Commission and the European Union Intellectual Property Office (EUIPO) [launched](#) the new EU SME Fund, which offers vouchers for EU-based SMEs to help them protect their IP rights. The SME fund, which has a budget of €47 million, is the second EU SME fund aiming to support SMEs in the COVID-19 recovery and green and digital transitions for the next three years (2022-2024). EUIPO will manage

the SME Fund through calls for proposals. The first call was launched on Monday on the EUIPO website [here](#).

## **VI. Industry Updates:**

- On Tuesday, over 25 civil rights and privacy groups sent a letter to Congress calling on them to exercise caution in regulating the tech industry. “We call on Congressional lawmakers to approach legislation related to Web 3 technologies carefully, and consider the impact that any potential regulation might have on communities of color, low income people, and other who have faced discrimination from traditional, and often predatory, Big Tech companies, banks, and financial services.” Read the full letter [here](#).