



AMERICAN CONTINENTAL GROUP

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## PATENT & TRADEMARK POLICY REPORT APRIL 19, 2024



### I. Congressional Update:

- On Tuesday, April 16, the House Committee on Ways and Means held a hearing titled “Hearing on the Biden Administration’s 2024 Trade Agenda with U.S. Trade Representative Katherine Tai.” Lasting nearly 5 hours, the hearing discussed concerns about the Biden administration’s trade policies, with Chair Jason Smith criticizing the administration for not securing critical supply chains and not being aggressive enough in protecting American farmers. Ranking Member Richard Neal praised Ambassador Katherine Tai for her negotiation skills and her role in the USMCA trade agreement. In her testimony, Ambassador Tai emphasized the need for economic policies that strengthen the middle class and ensure broad-based access to economic opportunity. She also discussed efforts to incorporate more voices into trade policymaking and the importance of resilient supply chains. The hearing included discussions on the Generalized System of Preferences program, labor standards in U.S. trade agreements, and the administration’s current trade agenda. Other topics of interest that were discussed include combatting piracy, digital services taxes, digital trade, protecting intellectual property, and Special 301 tariffs. A full summary from ACG can be provided upon request. A link to the full hearing can be found [here](#).
- On Wednesday, April 17, the Senate Committee on Finance held a hearing titled “*The President’s 2024 Trade Policy Agenda*.” The hearing discussed the President’s 2024 Trade Agenda, with Chair Ron Wyden emphasizing the need for trade enforcement and removal

### Headlines and Highlights:

- House and Senate Hold Hearings on Biden’s Trade Agenda.
- USPTO and HJC IP Subcommittee to host World IP Day at Capitol.
- USPTO Announces National Patent Competition Winner.
- USPTO Launches IP Champions Outreach Campaign.
- USPTO Advances Rules Governing PTAB review Practices.
- USPTO Proposes Rules for PTAB Review.
- FTC and HHS Launch Portal for Public Reporting of Anti-competitive Practices in Healthcare

of trade barriers to support American workers and businesses. He highlighted unfair practices by foreign countries and stressed the importance of the U.S. playing an active role in setting rules for digital trade. Ranking Member Mike Crapo criticized the current administration's trade policy, stating it lacks enforcement and has not initiated any action against China. Ambassador Katherine Tai discussed the president's trade policy agenda, emphasizing the need for economic policies that strengthen the middle class and ensure broad-based access to economic opportunity. She also discussed efforts to ensure all Americans enjoy the benefits of trade. Overall, the hearing was largely bipartisan with members on both sides of the aisle focusing on digital trade, lack of transparency, enforcement, China Section 301, the development of new free trade agreements, and need for market access. A link to the hearing video can be found [here](#). A full summary from ACG can be provided upon request.

- On Wednesday, May 1, at 4 p.m. ET, Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), Rep. Darrell Issa, Chair of the U.S. House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet, and representatives from USPTO partner organizations will host an event at the U.S. Capitol Building to celebrate World Intellectual Property Day 2024. This year's theme, "IP and the SDGs – IP as a Solution," focuses on the critical role IP protection plays in achieving the United Nations' Sustainable Development Goals (SDGs). Participants will delve into discussions on progress towards these goals, which encompass areas such as affordable and clean energy, climate action, and gender equality. The full agenda for the event is forthcoming, but more information can be found [here](#).

## II. USPTO Updates:

- On Monday, USPTO announced the winner of the 2024 National Patent Application Drafting Competition (NPADC). The final round of the competition took place on April 12 at the USPTO headquarters in Alexandria, Virginia. The University of Missouri - Kansas City School of Law secured first place, followed by UC Berkeley School of Law in second place and University of Detroit Mercy School of Law in third place. Finalists included Emory University School of Law and George Washington University Law School. The competition, which began with 76 registrations, saw competitors refining their patent application drafting, amending, and prosecution skills. The top five teams presented to a panel of judges at the USPTO headquarters, gaining practical experience and engaging with leaders in the intellectual property community. More information is available [here](#).
- The U.S. Patent and Trademark Office (USPTO) launched its [Community Outreach Campaign: IP Champions](#), which connects USPTO employees trained in providing IP awareness and educational resources to high schools and local community centers. More information is available [here](#).
- On Thursday, the USPTO published a Notice of Proposed Rulemaking (NPRM) on “Briefing Discretionary Denial Issues, and Rules for 325(d) Considerations, Instituting Parallel and Serial Petitions, and Termination Due to Settlement Agreement.” The notice follows up on an Advance Notice of Proposed Rulemaking that the Office issued in 2023. The NPRM seeks to enhance fairness, transparency, and efficiency in PTAB processes based on extensive stakeholder feedback, including over 14,500 comments on the ANPRM. Proposed

rules address issues like discretionary denials of parallel and serial petitions, as well as petitions involving prior art or arguments previously presented to the USPTO. The deadline for comments on the proposed rules is June 18, 2024. Read more [here](#).

### **III. Administration Updates:**

- On Thursday, April 18, the Justice Department, Federal Trade Commission (FTC), and the Department of Health and Human Services (HHS) launched an online portal for the public to report anti-competitive healthcare practices, furthering the Biden Administration's efforts to reduce healthcare and prescription drug costs. Reports submitted through the portal will be directed to the Justice Department's Antitrust Division and the FTC. This initiative is part of a broader strategy that includes potential legal action against pharmaceutical companies that delay generic competitors through improper patent listings. FTC Chair Lina M. Khan emphasized the importance of the joint initiative in providing a crucial channel for the agencies to address illegal business practices harmful to consumers and workers. Read more [here](#).

### **IV. Judicial Update**

- On Monday, Hewlett Packard Enterprise (HPE) filed a lawsuit against Chinese cloud-computing company Inspur Group in a California federal court, alleging infringement of five HPE patents related to computing technology. HPE claimed that Inspur's products, including servers, storage devices, networking devices, and software, violate its patent rights. The lawsuit also highlighted Inspur's sales through its U.S. subsidiary, Aivres Systems, which was renamed to avoid negative publicity from a previous export ban. Inspur, previously blacklisted by the Biden Administration, has not responded to the lawsuit. HPE spokesperson Adam Bauer stated that the lawsuit aims to protect HPE's leadership position resulting from significant R&D investments. The legal action comes amidst tensions between the U.S. and China, with the U.S. Department of Commerce previously banning American entities from exporting products to Inspur over concerns about support for China's military-modernization efforts. The lawsuit seeks unspecified damages and a court order to prevent further patent infringement by Inspur. Read more [here](#).
- On Wednesday, a Texas federal jury ruled that Samsung Electronics owes patent owner G+ Communications \$142 million for infringing G+ patents related to 5G wireless technology in its Galaxy smartphones. The jury determined lump sums of \$61 million for one patent and \$81 million for another after a three-day retrial on damages ordered by Chief U.S. District Judge Rodney Gilstrap, who had previously thrown out an earlier \$67.5 million verdict for G+. G+ attorney Jennifer Truelove expressed satisfaction with the verdict, while Samsung representatives did not immediately comment. The Plano, Texas-based G+ alleged in 2022 that Samsung included its technology in 5G-capable Galaxy smartphones without a license. Samsung denied the allegations, arguing patent invalidity and unfair licensing terms. Read more [here](#).
- On Thursday, Alan Amron, who previously asserted he invented the Post-It note, initiated legal action against Major League Baseball (MLB), Ticketmaster LLC, and StubHub Holdings Inc. in the U.S. District Court for the Southern District of New York, alleging patent infringement of his dynamic barcode technology. Seeking \$720 million in damages, Amron's lawsuit asserts that MLB and the ticketing platforms are utilizing his patented

technology without authorization, aiming to prevent unauthorized screenshots of digital tickets. The complaint, expanding on a previous lawsuit against MLB, now includes Ticketmaster and StubHub as defendants. Amron, representing himself, requests a preliminary injunction to halt further infringement until the case concludes. As of the report, MLB, Ticketmaster, and StubHub have yet to respond to requests for comment. Read [more](#).